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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 91, 121, 135, 141

[Docket No.: FAA-2016-6142; Notice No. 16-02]

RIN 2120-AK28

Regulatory Relief: Aviation Training Devices; Pilot Certification, Training, and Pilot Schools; and Other Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This rulemaking would relieve burdens on pilots seeking to obtain aeronautical experience, training, and certification by increasing the allowed use of aviation training devices. These training devices have proven to be an effective, safe, and affordable means of obtaining pilot experience. This rulemaking also would address changing technologies by accommodating the use of technically advanced airplanes as an alternative to the use of older complex single engine airplanes for the commercial pilot training and testing requirements. Additionally, this rulemaking would broaden the opportunities for military instructors to obtain civilian ratings based on military experience, would expand opportunities for logging pilot time, and would remove a burden from sport pilot instructors by permitting them to serve as safety pilots. Finally, this rulemaking would include changes to some of the provisions established in an August 2009 final rule. These actions are necessary to bring the regulations in line with current needs and activities of the general aviation training community and pilots.

DATES: Send comments on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments identified by docket number FAA-2016-6142 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations at 202-493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marcel Bernard, Airmen Certification and Training Branch, Flight Standards Service, AFS-810, Federal Aviation Administration, 55 M Street, SE., 8th floor, Washington, DC 20003-3522; telephone (202) 267-1100; email marcel.bernard@faa.gov.

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List of Abbreviations Frequently Used In This Document

AATD – Advanced aviation training device
 AC – Advisory Circular
 ATD – Aviation training device
 ATP – Airline transport pilot
 BATD – Basic aviation training device
 FFS – Full flight simulator

FTD – Flight training device
FSTD – Flight simulation training device
ICAO – International Civil Aviation Organization
IFR – Instrument flight rules
LOA – Letter of authorization
LODA – Letter of deviation authority
MFD – Multi-function display
NPRM – Notice of proposed rulemaking
PFD – Primary flight display
PIC – Pilot in command
SIC – Second in command
TAA – Technically advanced airplane
VFR – Visual flight rules

I. Executive Summary

On January 18, 2011, the President signed Executive Order 13563, Improving Regulation and Regulatory Review. Among other things, Section 6 of that Executive Order directs agencies to conduct a retrospective analysis of existing rules. Specifically, Executive Order 13563 provides that “[t]o facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.”

Consistent with Executive Order 13563, the FAA routinely evaluates existing regulations and other requirements. The FAA works to identify unnecessary, duplicative, or ineffective regulations and to mitigate the impacts of those regulations, where possible, without compromising safety.

As part of the FAA’s continuing obligation to review its regulations, the agency has conducted an analysis of 14 CFR parts 61, 91, and 141 to identify provisions that are outmoded, ineffective, or involve an unnecessary burden. This notice of proposed rulemaking (NPRM) is

the result of the FAA's analysis of its regulations and includes proposed amendments that are consistent with the retrospective regulatory review requirements of Executive Order 13563. The proposed amendments reduce or relieve existing burdens on the general aviation community. Several of these proposed changes have resulted from suggestions from the general aviation community through petitions for rulemaking, industry/agency meetings, and requests for legal interpretation. The proposed changes include increases in the use of aviation training devices (ATDs), flight training devices (FTDs), and full flight simulators (FFSs); expanding opportunities for pilots in part 135 operations to log flight time, allowing an alternative to the complex airplane requirement for commercial pilot training, and permitting pilots to credit some of their sport pilot training toward a higher certificate. Because this rulemaking includes proposals that affect several disparate subject areas within the regulations, the FAA has provided the necessary background information in the separate sections of this document that discuss each proposed rule change.

Summary of Proposed Provisions

Table 1 summarizes the provisions included in this rule, the sections affected, and the total cost savings (benefits) for a 5-year analysis period. All of the provisions proposed in this rule are either relieving or voluntary. For those provisions that are relieving, no person affected is anticipated to incur any costs associated with the relieving nature of the provision. The FAA assumes that as these provisions are relieving, all persons affected would use the provisions as they would be beneficial. For those proposed provisions that are voluntary, persons who wish to use the new provisions will do so only if the benefit they would accrue from their use exceeds any cost they might incur to comply with the new provision.

Table 1: Summary of Provisions in the Proposed Rule¹

Provision	Summary	§§ Affected	Total Cost Savings (Benefits) for 5-Year Analysis Period
Aviation Training Devices			
Instructor requirement when using an FFS, FTD, or ATD to complete instrument recency	Remove the requirement to have an instructor present when accomplishing flight experience requirements for instrument recency in an FAA-approved FFS, FTD, or ATD.	61.51(g)(5)	The cost savings benefits equal about \$12.1 million or \$10.6 million in present value at a 7 percent discount rate.
Instrument recency experience requirements	Reduce frequency of instrument recency flight experience accomplished exclusively in ATDs from every two months to every six months. Reduce number of tasks and remove three-hour flight time requirement when accomplishing instrument recency flight experience in ATDs.	61.57(c) 135.245	The cost savings benefits equal about \$79.4 million or \$69.6 million in present value at a 7 percent discount rate.
Pilot Certification, Training, and Pilot Schools			
Second in command for part 135 operations	Allow a pilot to log SIC flight time in a multi-engine airplane in a part 135 operation that does not require an SIC.	61.1 61.39(a) 61.51(e), (f) 61.159(a), (c) 61.161 135.99(c)	The FAA considers this to be a minimum cost rule with positive, but difficult to quantify, benefits.
Completion of commercial pilot training and testing in technically advanced airplanes (TAA)	Allow TAA to be used to meet some or all of the currently required 10 hours of training that must be completed in a complex or turbine-powered airplane for the single engine commercial pilot certificate. TAA could be used in combination with, or instead of, a complex or turbine-powered airplane to meet the aeronautical experience requirement	61.1 61.129(a)(3)(ii) appendix D to part 141	The cost savings benefits equal about \$9.7 million or \$8 million in present value at a 7 percent discount rate.

¹ The agency recommends that commenters reference the title of the provision to which they are commenting as it appears in the first column of this table for ease of reference.

Provision	Summary	§§ Affected	Total Cost Savings (Benefits) for 5-Year Analysis Period
	and could be used to complete the practical test.		
Flight instructors with instrument ratings only	Remove the requirement that instrument only instructors have category and class ratings on their flight instructor certificates to provide instrument training.	61.195(b), (c)	The cost savings benefits equal about \$1.7 million or \$1.5 million in present value at a 7 percent discount rate.
Sport pilot flight instructor training privilege	Allow a sport pilot only instructor to provide training on control and maneuvering solely by reference to the flight instruments (for sport pilot students only).	61.412 61.415(h) 91.109(c)	Sport pilot flight instructors who choose to receive this endorsement have determined that they would be able to recoup this cost by providing training to sport pilot students.
Credit for training obtained as a sport pilot	Allow sport pilot training to be credited for certain aeronautical experience requirements for a higher certificate or rating.	61.99 61.109(l)	If all 5,259 sport pilots choose to use the lower cost option, the cost savings would exceed \$8.0 million. We have used \$8.0 million as a one-time event in the benefit-cost analysis.
Include special curricula courses in renewal of pilot school certificate	Allow part 141 pilot schools to count FAA approved "special curricula" course completions (graduates of these courses) toward certificate renewal requirements.	141.5(d)	This proposed rule provision provides potential unquantified benefits which exceed minimal compliance costs.
Other Provisions			
Temporary validation of flightcrew members' certificates	Allow a confirmation document issued by a part 119 certificate holder authorized to conduct operations under part 121 or 135 to serve as a temporary verification of the airman certificate and/or medical certificate during domestic	61.3(a) 63.3(a) 63.16 121.383(c) 135.95	This proposed rule would relieve both the FAA and stakeholders from the burden of the exemption process, which must be completed every two years. The cost savings, while real,

Provision	Summary	§§ Affected	Total Cost Savings (Benefits) for 5-Year Analysis Period
	operations for up to 72 hours.		are small and believed to be de minimis.
Military competence for Flight Instructors	Allow the addition of a flight instructor rating based on military competency to “simultaneously qualify” for the reinstatement of that expired FAA flight instructor certificate.	61.197 61.199	The cost savings benefits equal about \$1.4 million or \$1.2 million in present value at a 7 percent discount rate.
Restricted Category Aircraft training and testing allowances	Allow an operator to request and obtain a letter of deviation authority to conduct training and testing and other directly related activities for employees to obtain a type rating in a restricted category aircraft.	91.313	The benefits will exceed costs for those who choose to comply.
Single Pilot Operations of Former Military Airplanes and Other Airplanes with Special Airworthiness Certificates	Allow pilots to operate certain large and turbojet-powered airplanes (specifically former military and some airplanes not type certificated in the standard category) without a pilot who is designated as SIC.	91.531	The benefits will exceed costs for those who choose to comply.

II. Authority for this Rulemaking

The FAA’s authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority.

This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security; and 49 U.S.C. 44703(a), which requires the Administrator to prescribe regulations for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. Consistent with this authority and with the retrospective regulatory review requirements of Executive Order 13563, this rulemaking includes certain proposed amendments that would reduce or relieve existing burdens on the general aviation community.

III. Discussion of the Proposed Rule

A. Aviation Training Devices

Since the 1970s, the FAA has gradually expanded the use of flight simulation for training – first permitting simulation to be used in air carrier training programs and eventually permitting pilots to credit time in devices toward the aeronautical experience requirements for airman certification and recency. Currently, Title 14 of the Code of Federal Regulations (14 CFR) part 60 governs the qualification of flight simulation training devices (FSTD) which include FFSs

and FTDs levels 4 through 7. The FAA has, however, approved other devices including ATDs for use in pilot certification training, under the authority provided in 14 CFR 61.4(c).²

For over 30 years, the FAA has issued letters of authorization (LOAs) to manufacturers of ground trainers, personal computer-based aviation training devices (PCATD), FTDs (levels 1 through 3), basic aviation training devices (BATD), and advanced aviation training devices (AATD). These LOAs were based on guidance provided in advisory circulars that set forth the qualifications and capabilities for the devices. Prior to 2008, most LOAs were issued under the guidance provided in advisory circular AC 61-126, Qualification and Approval of Personal Computer-Based Aviation Training Devices, and AC 120-45, Airplane Flight Training Device Qualification. Since July 2008, the FAA has been approving devices in accordance with Advisory Circular 61-136, FAA Approval of Basic Aviation Training Devices (BATD) and Advanced Aviation Training Devices (AATD).

In 2009, the FAA issued a final rule that for the first time introduced the term “aviation training device” into the regulations and placed express limits on the amount of instrument time that could be credited in an ATD toward the aeronautical experience requirements for an instrument rating.³

² Section 61.4(c) states that the “Administrator may approve a device other than a flight simulator or flight training device for specific purposes.”

³ In a 2007 NPRM, the FAA proposed to limit the time in a personal computer-based aviation training device that could be credited toward the instrument rating. Pilot, Flight Instructor, and Pilot School Certification NPRM, 72 FR 5806 (February 7, 2007). Three commenters recommended that the FAA use the terms “basic aviation training device” (BATD) and “advanced aviation training device” (AATD). Pilot, Flight Instructor, and Pilot School Certification Final Rule, 74 FR 42500 (August 21, 2009) (“2009 Final Rule”). In response to the commenters, the FAA changed the regulatory text in the final rule to “aviation training device,” noting BATDs and AATDs “as being aviation training devices (ATD) are defined” in an advisory circular.

Since the 2009 final rule, the regulations permit ATDs to be used for the purpose of satisfying instrument recency experience requirements. As set forth in § 61.57, pilots who complete instrument recency experience exclusively in ATDs must complete more tasks at more frequent intervals than those pilots who use aircraft, FFSs, and FTDs.

Despite the limitations on the use of ATDs that were set forth in the 2009 final rule, the FAA had issued hundreds of LOAs to manufacturers of devices that permitted ATDs (as well as ground trainers, PCATDs, and FTDs (levels 1 through 3)) to be used to a greater extent than were ultimately set forth in the regulations. Even after publication of the 2009 final rule, the FAA continued to issue LOAs in excess of the express limitations in the regulations. On January 2, 2014, the FAA published a notice of policy to reissue LOAs to reflect current regulatory requirements. 79 FR 20. The FAA concluded that it could not use LOAs to exceed express limitations that had been placed in the regulations through notice and comment rulemaking.

As discussed further in the following two sections, the FAA is proposing to amend the regulations governing the use of ATDs to increase the use of these devices for instrument training and instrument recency experience requirements above the levels established in the 2009 final rule. In developing this proposed rule, the FAA notes that ATD development has advanced to an impressive level of capability. Many ATDs can simulate weather conditions with variable winds, variable ceilings and visibility, icing, turbulence, high definition (HD) visuals, hundreds of different equipment failure scenarios, navigation specific to current charts and topography, specific navigation and communication equipment use, variable “aircraft specific” performance, and more. The visual and motion component of some of these devices permit maneuvers that

require outside visual references in an aircraft to be successfully taught in an AATD. Many of these simulation capabilities were not possible in PCATDs and BATDs that the FAA approved for 10 hours of instrument time.

The FAA believes that permitting pilots to log increased time in ATDs would encourage pilots to practice maneuvers until they are performed to an acceptable level of proficiency. In an ATD, a pilot can replay the training scenario, identify any improper action, and determine corrective actions without undue hazard or risk to persons or property. In this fashion, a pilot can continue to practice tasks and maneuvers in a safe, effective, and cost efficient means of maintaining proficiency.

In a recent notice of proposed rulemaking (NPRM),⁴ the FAA proposed to increase the maximum time that may be credited in an ATD toward the aeronautical experience requirements for an instrument rating under § 61.65(i). The NPRM proposed to permit a person to credit a maximum of 20 hours of aeronautical experience acquired in an approved ATD toward the requirements for an instrument rating. By LOA, devices that qualify as AATDs were proposed to be authorized for up to 20 hours of experience to meet the instrument time requirements. Devices that qualify as BATDs were proposed to be authorized, by LOA, for a maximum of 10 hours of experience to meet the instrument time requirements.

Based on the comments received to the NPRM, the final rule⁵ revised § 61.65 to include a specified allowance of 10 hours for BATDs and 20 hours for AATDs in part 61 (combined use not to exceed 20 hours) for the instrument rating.

⁴ Aviation Training Device Credit for Pilot Certification, 80 FR 34338 (Jun. 16, 2015).

⁵ 81 FR 21449 (Apr. 12, 2016).

The NPRM also addressed the use of ATDs in approved instrument rating courses. The NPRM proposed to amend appendix C to part 141 to increase the limit on the amount of training hours that may be accomplished in an ATD in an approved course for an instrument rating. The FAA proposed to allow ATDs to be used for no more than 40% of the total flight training hour requirements in an approved instrument rating course.

Based on the comments received to the NPRM, the final rule revised appendix C to part 141 to include a specified allowance of 25% of creditable time in BATDs⁶ and 40% of creditable time for AATDs under part 141 (not to exceed 40% total time) for the instrument rating.

The FAA is now proposing to define ATD in § 61.1 as a training device, other than a full flight simulator or flight training device, that has been evaluated, qualified, and approved by the Administrator. The FAA is proposing to add a definition of aviation training device to 61.1 to differentiate ATDs from FFS and FTDs approved under part 60 and to establish that an ATD must be approved by the Administrator to be used to meet aeronautical experience requirements under part 61. The FAA will continue to evaluate, qualify, and approve these devices in accordance with the guidance set forth in AC 61-136, which has been placed in the docket for this rulemaking.⁷

⁶ If a course of training is approved under the minimum requirements as prescribed in part 141 Appendix C for the instrument rating (35 hours of training required), 25% in a BATD would equate to 8.75 hours and 40% in an AATD would equate to 14 hours.

⁷ The FAA will continue to issue LOAs that allow ATDs to be used to meet other aeronautical experience requirements in parts 61 and 141, including aeronautical experience for pilot certificates and ratings. Currently, the FAA issues LOAs that allow pilots to credit the same amount of time in ATDs as is currently permitted by regulation in FSTDs when the rule is silent on ATD allowances.

1. Instructor Requirement when Using a Full Flight Simulator, Flight Training Device, or Aviation Training Device to Complete Instrument Recency Experience

Currently, pilots who perform instrument recency experience requirements in an aircraft are not required to have an authorized instructor present to observe the time. Rather, the pilot can perform the required tasks in actual instrument conditions or in simulated instrument conditions with a safety pilot on board the aircraft. A pilot who accomplishes instrument recency experience in an FFS, FTD, or ATD, however, must have an authorized instructor present to observe the time and sign the pilot's logbook. 14 CFR 61.51(g)(4).

In revising § 61.57 in the 2009 final rule to include the option of using ATDs for meeting instrument recency experience, the preamble indicated that the FAA did not intend for an authorized instructor to be present during instrument recency experience performed in an FSTD or an ATD. It stated: “[A] person who is instrument current or is within the second 6-calendar month period * * * need not have a flight instructor or ground instructor present when accomplishing the approaches, holding, and course intercepting/tracking tasks of § 61.57(c)(1)(i), (ii), and (iii) in an approved flight training device or flight simulator.” 74 FR 42500, 42518. In 2010, the FAA issued a legal interpretation⁸ stating that, based on the express language in § 61.51(g)(4), an instructor must be present in order for a pilot to accomplish instrument recency experience in an FSTD or ATD. That interpretation acknowledged, however, that the FAA had indicated in the 2009 preamble some intention to change the requirement but that the change was not reflected in the regulation.

⁸ Legal Interpretation to Thomas Keller, August 6, 2010.

The FAA is proposing to amend § 61.51(g) by revising paragraph (g)(4) and adding a new paragraph (g)(5) to allow a pilot to accomplish instrument recency experience when using an FAA-approved FFS, FTD, or ATD – just as he or she might do when completing instrument recency experience in an aircraft – without an instructor present. Because instrument recency experience is not training, the FAA no longer believes it is necessary to have an instructor present when instrument recency experience is accomplished in an FSTD or ATD. An instrument-rated pilot has demonstrated proficiency during a practical test with an examiner. It can be expensive to hire an instructor to observe a pilot performing the instrument experience requirements solely to verify that the instrument recency experience was performed.⁹ As noted above, practice in an ATD has the distinct advantage of pause and review of pilot performance not available in an aircraft.

As with instrument recency experience accomplished in an aircraft, the pilot would continue to be required to verify and document this time in his or her logbook. The FAA is retaining the requirement that an authorized instructor must be present in an FSTD or ATD when a pilot is logging time to meet the requirements of a certificate or rating, for example, under §§ 61.51(g)(4), 61.65 and 61.129.

2. Instrument Recency Experience Requirements

Currently, under § 61.57(c), to act as pilot in command (PIC) of an aircraft under instrument flight rules (IFR) or in weather conditions less than the minimums prescribed for visual flight rules (VFR), an instrument-rated pilot must accomplish instrument experience (often

⁹ The proposal would not change the existing requirement to reestablish currency by completing an instrument proficiency check under the requirements in § 61.57(d).

described as instrument practice, currency or recency) within a certain period preceding the month of the flight.

If a pilot accomplishes the instrument recency experience in an aircraft, FFS, FTD, or a combination, then § 61.57(c)(1)-(2) requires that, within the preceding 6 months, the pilot must have performed: (1) six instrument approaches; (2) holding procedures and tasks; and (3) intercepting and tracking courses through the use of navigational electronic systems.¹⁰ If a pilot accomplishes instrument experience exclusively in an ATD, then § 61.57(c)(3) requires that, within the preceding two months, the pilot must have performed the same tasks and maneuvers listed previously plus “two unusual attitude recoveries while in descending V_{ne} airspeed condition and two unusual attitude recoveries while in an ascending stall speed condition.” 14 CFR 61.57(c)(3). Section 61.57(c)(3) also requires a minimum of three hours of instrument recency experience when using an ATD, whereas no minimum time requirement applies when using an aircraft, FFS, or FTD to accomplish the instrument experience.

If a pilot accomplishes the instrument recency experience using an ATD in combination with using an FFS or FTD, then the pilot must – when using an ATD – perform the additional tasks but the “look back” period to act as PIC is six months rather than two months.

14 CFR 61.57(c)(5). The FAA stated in 2009 that the more restrictive time limitations and additional tasks were based on the fact that, at the time, ATDs represented new technology.

¹⁰ A pilot whose instrument currency has been lapsed for less than six months may not act as pilot in command in IFR or weather conditions less than the minimums prescribed for VFR but may reestablish instrument currency by performing the tasks and maneuvers in § 61.57(c). If a pilot has failed to maintain instrument currency for more than six months (meaning it is more than six months since the pilot was instrument current), the pilot may reestablish instrument currency only by completing an instrument proficiency check under the conditions set forth in § 61.57(d). See Pilot, Flight Instructor, and Pilot School Certification: Technical Amendment, 76 FR 78141, 78142 (December 16, 2011).

Since the ATD provisions were added to § 61.57 in the 2009 final rule, the FAA has received numerous inquiries regarding the terms used in the rule and what might be acceptable combinations when using various aircraft or training devices to satisfy the currency requirements.¹¹

The FAA is proposing to amend § 61.57(c) to allow pilots to accomplish instrument experience in ATDs at the same 6-month interval allowed for FFSs and FTDs. In addition, the FAA is proposing to no longer require those pilots who opt to use ATDs exclusively to accomplish instrument recency experience to complete a specific number of additional hours of instrument experience or additional tasks (in existing § 61.57(c)(3)) to remain current. As discussed previously, significant improvements in technology for these training devices have made it possible to allow pilots to use ATDs for instrument recency experience at the same frequency and task level as FSTDs. The FAA believes that this proposal would encourage pilots to maintain instrument currency, promote safety by expanding the options to maintain currency, and be cost saving. As proposed, a pilot would be permitted to complete instrument recency experience in any combination of aircraft, FFS, FTD, or ATD.

3. Instrument Recency Experience for SICs Serving in Part 135 Operations

Section 135.245(a) requires a person serving as SIC in a part 135 operation conducted under IFR to “meet the recent instrument experience requirements of part 61[.]” The FAA is proposing to remove the reference to part 61 in § 135.245(a) and move the current instrument

¹¹ The FAA notes that it also received comments requesting clarification of the recency requirements to the “Aviation Training Device Credit for Pilot Certification” direct final rule (79 FR 71634, December 3, 2015) (Docket No. FAA-2014-0987, comments at FAA-2014-0987-0004, FAA-2014-0987-0022) and the similarly-titled notice of proposed rulemaking (80 FR 34338, June 16, 2015) (Docket No. FAA-2015-1846, comments at FAA-2015-1846-0034, FAA-2015-1846-0038, FAA-2015-1846-0055). <http://www.regulations.gov>.

experience requirements in § 61.57(c)(1) and (2) to new § 135.245(c). The use of aviation training devices is not currently permitted to satisfy requirements in part 135. As such, it is more appropriate for the express requirement for instrument recency experience to be listed in part 135 rather than by reference to another rule part.

B. Pilot Certification, Training, and Pilot Schools

1. Second In Command Time In Part 135 Operations

Logging Second-in-Command Time

Currently, a person may log second-in-command (SIC) flight time¹² only when more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is being conducted. 14 CFR 61.51(f).

In some situations, an airplane may be type certificated for operation either by two pilots or by a single pilot if the airplane has additional equipment specified in the operating limitations section of the FAA-approved airplane flight manual. For example, a Cessna 551 requires two pilots unless the airplane is equipped with an autopilot with approach coupling, flight director, boom microphone or headset mounted microphone, and a transponder ident switch on the pilot's control wheel. Likewise, certain operations conducted under part 135 require an SIC even when

¹² "Flight time" is defined, in relevant part, as "pilot time that commences when an aircraft moves under its own power for the purpose of flight and ends when the aircraft comes to rest after landing." 14 CFR 1.1. "Pilot time" is currently defined as "time in which a person (i) serves as a required pilot flight crewmember; (ii) receives training from an authorized instructor in an aircraft, flight simulator, or flight training device; or (iii) gives training as an authorized instructor in an aircraft, flight simulator, or flight training device." 14 CFR 61.1.

the type certification for the aircraft would not require a second pilot.¹³ For example, under § 135.101 no person may operate an aircraft carrying passengers under IFR unless there is an SIC in the aircraft. Notwithstanding this requirement, the regulations allow a certificate holder to conduct this operation without an SIC provided the aircraft is equipped with an operative and approved autopilot system and its use has been authorized by the FAA. 14 CFR 135.105.

Over the years, several individuals have requested clarification from the FAA regarding whether a second pilot may log flight time when an aircraft is equipped for operation by a single pilot. The FAA responded that, because the aircraft – as equipped – requires a single pilot under the type certificate or regulation under which the flight is being conducted, then a second pilot is not a required flightcrew member. Accordingly, a second pilot may not log flight time under § 61.51(f) during those flights.¹⁴ See legal Interpretation to Scott Nichols, April 2, 2009; Legal Interpretation to Jeff Karch, May 28, 1998; Legal Interpretation to Jeff Karch, March 9, 2000.

Petitions for Exemption

On December 18, 2007, Ameriflight, a part 119 certificate holder authorized to conduct operations under part 135, petitioned the FAA for an exemption from § 61.51(f)(2) to allow Ameriflight's SICs to log flight time during a flight that otherwise does not require an SIC.¹⁵ Ameriflight indicated that, if granted, the exemption would apply "when an operator elects to

¹³ For instance, no certificate holder may operate an aircraft without an SIC: (1) if the aircraft has a passenger seating configuration, excluding any pilot seat, of ten seats or more; or (2) the flight is conducted in a Category II operation. 14 CFR 135.99(b); 135.111. Part 135 has no exceptions to the SIC requirement during these operations.

¹⁴ The FAA has indicated that an assigned SIC (though not required) may log flight time as PIC under § 61.51(e) as the sole manipulator of the controls of an aircraft for which the pilot is rated. The assigned PIC (unless he or she holds an airline transport pilot (ATP) certificate and is acting as PIC of an operation requiring an ATP certificate) would not be able to log flight time concurrently because, under § 61.51(e)(1)(iii), the PIC is not acting as PIC of an aircraft for which more than one pilot is required by the type certification of the aircraft or the regulation under which the flight is being conducted.

¹⁵ Exemption No. 9770; Docket No. FAA-2007-0383. <http://www.regulations.gov>

assign a properly trained and checked SIC to a flight so that special SIC operations could be conducted if the need arose, flight time accumulated during such an assignment may be ‘legally’ logged by the SIC as SIC time, and meet the requirements of § 61.51(f)(2).”

In its petition, Ameriflight stated that granting this exemption would actively improve the level of safety because a properly trained and qualified SIC enhances safety in the cockpit by (1) providing a second set of eyes, (2) allowing for better implementation of crew resource management, (3) encouraging the use of standardized procedures, and (4) helping distribute flying tasks during periods of high workload. Ameriflight further stated that a grant of exemption would be in the public interest because SICs assigned to these operations would gain real-world line flying experience under supervision of a qualified PIC which it claimed was an important element in a smooth upgrade to PIC. Ameriflight also commented that future airline pilots currently below the § 135.243(c) threshold for PIC¹⁶ would have an opportunity to gain experience far more useful to their careers than other currently available avenues, such as flight instruction, pipeline patrol, and traffic watch.

The FAA issued a partial grant of exemption to allow Ameriflight’s pilots to log SIC time in part 135 operations that did not otherwise require an SIC for the purposes of upgrading from SIC to PIC in those operations. The exemption, which has since been renewed,¹⁷ does not permit the flight time to be used to gain an additional certificate or rating under part 61 or to be logged as PIC flight time (even if the pilot is the sole manipulator of the controls of the aircraft). All

¹⁶ Section 135.243(c) states that no person may serve as PIC of an aircraft under IFR unless, among other things, that person has “at least 1,200 hours of flight time as a pilot, including 500 hours of cross-country flight time, 100 hours of night flight time, and 75 hours of actual or simulated instrument time at least 50 hours of which were in actual flight [.]”

¹⁷ The FAA granted the original petition for exemption on October 3, 2008, and issued extensions on October 29, 2010 (9770A), October 31, 2012 (9770B), September 30, 2014 (9770C), and October 29, 2014 (9770D).

pilots utilizing the exemption are required to complete the certificate holder's approved SIC training program including 3 hours of crew resource management training.

The pilots are also required to meet other part 135 experience, qualifications, and crew pairing requirements. Specifically, the SIC must hold a commercial pilot certificate with appropriate category, class, and instrument rating, if applicable. The SIC must complete the same part 135 pilot training requirements required for two-pilot crews necessary to conduct operations consistent with the certificate holder's operations specifications (Ops Specs).¹⁸

In addition, Ameriflight is required under the exemption to meet certain recordkeeping requirements and outline all SIC ground and flight duties in its general operations manual and flightcrew operating manual.

To the extent that Ameriflight had petitioned to permit its pilots to log flight time to meet aeronautical experience requirements for pilot certification, the FAA denied that relief stating that the denial was based on a desire to maintain the integrity of the higher level airmen certification and rating requirements. The FAA granted partial relief because that relief was confined to operations conducted solely within a part 135 certificate holder's operation, and such flight time would only be used to gain experience that would allow an SIC to upgrade to a PIC position within part 135 operations. The FAA found that such experience has value in part 135 operations.

On February 7, 2013, Ameriflight petitioned the FAA to expand the relief provided in the original partial grant of exemption by again asking for relief to permit SICs who were not

¹⁸ Ops Specs are paragraphs written and issued to the operator to provide specific requirements for certain FAA approved operations.

required by aircraft certification or the regulation under which the operation is conducted to log flight time to meet aeronautical experience requirements for pilot certification under part 61. Ameriflight restated its arguments regarding the value of the flight time and the benefit of building flight time under an experienced PIC. Ameriflight added that the relief was appropriate in light of Public Law 111-216 (August 1, 2010), which mandated FAA rulemaking to require SICs in part 121 operations to have an airline transport pilot (ATP) certificate.¹⁹ Ameriflight stated that granting the exemption would close the experience gap between pilots with 300 flight hours and SICs who must meet the new 1,500 hour experience requirement to qualify for an ATP certificate by providing “richer and more varied flying” than was otherwise available.²⁰

The FAA published a notice of the petition in the Federal Register. 78 FR 39824 (July 2, 2013). Thirty comments were submitted to the docket.²¹ Most commenters supported Ameriflight’s petition arguing that a two-pilot crew is safer than a one-pilot operation and the experience gained by the SIC is more valuable than experience gained through other methods such as banner-towing, pipeline, or power-line patrol. Other commenters noted other benefits such as mentoring by an experienced PIC, a second pair of eyes for safety, help in reducing

¹⁹ On July 15, 2013, the FAA published the final rule on Pilot Certification and Qualification Requirements for Air Carrier operations implementing these statutory mandates (78 FR 42324) (Pilot Certification rule). As a result of this action, an SIC in part 121 domestic, flag, and supplemental operations must now hold an ATP certificate and an airplane type rating for the aircraft to be flown. With a few exceptions based on military and academic experience, an ATP certificate requires that a pilot be 23 years of age and have 1,500 hours total time as a pilot. Further, to receive an ATP certificate with a multiengine class rating, a pilot must have 50 hours of multiengine flight experience and must have completed a new FAA-approved ATP Certification Training Program (CTP). To upgrade from SIC to PIC for a part 121 air carrier, the pilot must have logged at least 1,000 flight hours in air carrier operations.

²⁰ The FAA notes that 250 hours of flight experience are required for a commercial pilot certificate under § 61.129(a)-(b); the agency believes that Ameriflight referenced “300 flight hours” because a pilot typically would have completed more than the minimum 250 hours when hired by a certificate holder.

²¹ Docket No. FAA-2007-0383. <http://www.regulations.gov>

single pilot workload, and the opportunity for hands-on experience that is difficult to obtain otherwise.

Eight commenters raised concerns about Ameriflight's petition including the possibility of part 135 operators exploiting and charging low-time pilots a fee to gain this SIC experience. Other commenters suggested that granting the relief was contrary to the new ATP certificate requirements and National Transportation Safety Board (NTSB) recommendations that are meant to increase the SIC qualifications for air carrier operations. One commenter stated that SIC flight time should not be allowed in aircraft type-certificated for single pilot operations.

The FAA denied Ameriflight's petition to expand the relief to permit pilots to log flight time for certification. Although the FAA believed that the petitioner and commenters raised valid points regarding the benefit of a second pilot in part 135 operations, Ameriflight did not need an exemption to place another pilot on board for increased safety. Further, the FAA stated that Ameriflight failed to demonstrate how it is unique to the general class of regulated entities and therefore somehow eligible for regulatory relief. The FAA has consistently denied petitions for exemption from certification requirements including those pertaining to flight time requirements. The FAA believes that any changes to the requirements for logging flight time for the purpose of meeting certification requirements are most appropriately achieved through notice and comment rulemaking.

Proposed Rule Change

Under certain conditions, the FAA believes that it would be appropriate to allow pilots in part 135 operations to log time in an airplane or operation that does not otherwise require an SIC.

The FAA is proposing to amend § 135.99 by adding paragraph (c) to permit a certificate holder to receive approval of an SIC professional development program (SIC PDP) via Ops Specs in order to allow the certificate holder's pilots to log time under this proposal. The FAA believes that a comprehensive SIC PDP can provide opportunities for beneficial flight experience that may not otherwise exist and also provide increased safety in operations for those flights conducted in a multicrew environment.

To ensure that the SIC PDP achieves these goals, the FAA has set forth in proposed § 135.99(c) the requirements for certificate holders, airplanes, and flightcrew members during operations conducted under an approved SIC PDP. In addition to the following discussion of the proposal, the FAA has placed a draft advisory circular (AC) in the docket to this rulemaking that provides additional guidance for part 135 operators regarding development and approval (via Ops Specs) of a SIC PDP. The FAA seeks comments on this proposed AC.

As proposed, under an approved SIC PDP, a certificate holder would have to be authorized to conduct operations under IFR in multiengine airplanes with dual controls and flight instruments. Because the FAA believes that it is important that the required flightcrew member (i.e. the PIC) have immediate access to the flight controls at all times, the dual controls would not be permitted to include a throwover control wheel as proposed in § 135.99(c)(2)(i). The airplane would be required to have independent flight instrumentation for a second pilot that includes the following instrumentation: (1) airspeed indicator; (2) sensitive altimeter adjustable for barometric pressure; (3) gyroscopic bank and pitch indicator (artificial horizon); (4) gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator; (5) gyroscopic direction indicator (directional gyro or equivalent); (6) vertical speed indicator (rate-of-climb)

for IFR operations carrying passengers; and (7) course guidance for en route navigation and instrument approaches. In addition, the SIC would need to have independent instrumentation required by the certificate holder's Ops Specs. The FAA acknowledges that the proposed instrumentation is not currently required for SICs who are required by regulation. The FAA believes, however, that the proposed instrumentation is the minimum necessary for an SIC assigned under an SIC PDP to be actively engaged as a pilot flying and pilot monitoring in both VFR and IFR conditions and would ensure that these SICs obtain the relevant type of multipilot, multiengine experience envisioned by Public Law 111-216. The FAA seeks specific comment on the impact of these proposed instrumentation requirements on part 135 operators who would be interested in obtaining approval of an SIC PDP.

Consistent with existing obligations under part 135, certificate holders would be required to have: (1) a manual containing standard operating procedures (SOP) for conducting operations with a two pilot flightcrew and setting forth the duties and responsibilities of an SIC; (2) approved SIC training curriculums;²² (3) approved flight instructor (aircraft) training curriculums; and (4) initial and recurrent crew resource management (CRM) training for any pilot assigned to an operation consisting of more than one pilot flightcrew member.²³ The assigned SIC would be expected to perform the functions normally assigned to an SIC in an aircraft requiring two flightcrew members, such as communications, navigation, flight

²² The FAA would require certificate holders who exclusively conduct operations that require only a PIC to obtain approval of an SIC training program consistent with the requirements for SICs under part 135.

²³ Because a certificate holder who elects to conduct operations with an SIC would still have the option to conduct operations with a single pilot, the FAA would require certificate holders to provide training on both single pilot resource management and crew resource management as part of the certificate holder's training and checking program.

management, briefing, departure, arrival, and approach procedures, inspections and checklists, and, at times, sole manipulator of the flight controls.

As proposed in § 135.99(d), certificate holders who are authorized to operate as a basic operator, single PIC operator, or single pilot operator would not be permitted to obtain approval to conduct an SIC PDP. These certificate holders – either by regulation or deviation – are not required to develop and maintain manuals that describe the procedures and policies to be used by the flight, ground and maintenance personnel. 14 CFR 135.21. In addition, these certificate holders are not required to establish and maintain an approved pilot training program under § 135.341 or employ certain management personnel (e.g. Director of Operations, Chief Pilot) under § 119.69. Because of the limited size and scope of these certificate holders' operations, the FAA does not believe that they would provide the environment necessary to foster an SIC PDP.

The FAA is also proposing in § 135.99(c)(1) to require a certificate holder with an approved SIC PDP to maintain records for each pilot consistent with the requirements in § 135.63 and provide training and testing records upon request to any pilot who the certificate holder has assigned to serve as SIC under its program. Additionally, the certificate holder would be required to establish and maintain a data collection and analysis process that would permit the certificate holder and FAA to determine whether the SIC PDP is accomplishing its objectives. The proposed data collection and analysis process could be based off a certificate holder's existing voluntary safety management system or internal evaluation program. As proposed in §135.99(c)(1)(iv), a certificate holder who obtains approval of an SIC PDP would be required to conduct annual standardization meetings for all flight instructors serving as PIC during operations conducted under an SIC PDP. The FAA believes that standardization meetings would

provide an additional mechanism to assess the effectiveness of the SIC PDP and review performance of participating SICs.

Under proposed § 135.99(c)(4), an assigned PIC in an operation conducted under an SIC PDP must be an authorized part 135 flight instructor for the certificate holder. To serve as an assigned SIC under an SIC PDP, a pilot would be required to meet the same certification, qualification, training, checking, and testing requirements in part 135 as a required SIC.²⁴ Accordingly, an assigned SIC would be required to hold a commercial pilot certificate with appropriate category and class ratings and an instrument rating. 14 CFR 135.245. Because pilots serving under an SIC PDP would be exercising the privileges of a commercial pilot certificate, they would be required to hold a second class medical certificate. 14 CFR 61.23. A pilot logging time under this proposal would be required to complete the requirements of an approved SIC training and checking program for any airplane in which the pilot would serve. Because the pilot would be serving in a multicrew environment, this training would include crew resource management training required under § 135.330. An assigned SIC also would be required to complete any training required by the certificate holder's Ops Specs for the operation being conducted, such as operations in reduced vertical separation minimum airspace.

The FAA emphasizes that, under this proposal, an SIC assigned to duty under an SIC PDP would be subject to part 135 requirements as though the pilot were required by aircraft certification or regulation. For example, under the proposal, the assigned SIC would be subject to

²⁴ Consistent with current regulations, if a certificate holder is authorized under § 135.3(c) to comply with the applicable sections of subparts N and O of part 121 instead of the comparable requirements in part 135, the assigned SIC would be required to meet the certification, qualification, training and checking requirements required by subparts N and O of part 121, except for the airline transport pilot certification requirements in § 121.436. See 81 FR 1 (January 4, 2016).

flight time and duty period limitations and rest requirements under subpart F of part 135. Under part 135, these requirements can differ based on the flightcrew complement. As such, a certificate holder would be expected to treat duty and rest periods for a two-pilot crew conducted under an SIC PDP no differently than those for pilots serving in operations requiring two pilots by aircraft certification or regulation. In addition, the FAA would consider a pilot assigned to serve as SIC under an SIC PDP to be a covered employee performing a safety sensitive function subject to drug and alcohol testing requirements in part 120.

The FAA emphasizes that the SIC PDP would be voluntary. This proposal would impose no new requirements on certificate holders conducting operations under part 135 if they choose not to seek approval of an SIC PDP. However, only pilots employed by a certificate holder that has an approved SIC PDP would be permitted to log SIC flight time in part 135 operations when a second pilot is not required by the aircraft certification or the regulation under which the flight is being conducted. If a certificate holder does not have an approved SIC PDP and assigns a second pilot to an operation that does not require two pilots, that pilot may not log flight time under § 61.51.

If conducted in accordance with an approved SIC PDP, the flight time accomplished by those pilots serving as SIC could be counted toward the total flight time required for an ATP certificate under §§ 61.159(a), 61.160, and 61.161.²⁵ As proposed in § 61.159(c)(1), pilots who log time under this provision would not be permitted to use the time to meet the more specific flight time requirements for ATP certification (e.g. cross-country flight time, night flight time)

²⁵ The FAA is proposing to revise § 61.161 to permit flight time logged under an SIC PDP to be counted toward the 1,200 hours of total flight time required for an ATP certificate with a rotorcraft category helicopter class rating.

set forth in § 61.159(a)(1) through (5).²⁶ Rather, a pilot would be required to satisfy these specific aeronautical experience requirements during his or her time as a required pilot flightcrew member. This limitation on applying time logged under this provision only toward the total time requirement for an ATP certificate is consistent with the current limitation for SICs and flight engineers in § 61.159(c). The FAA believes that by allowing this time to be used only toward total flight time requirements for the ATP certificate, it would promote an environment in which a pilot's career follows a progression within part 135 that includes the pilot serving as a PIC in part 135 operations before transitioning to an SIC position in a part 121 operation.

In proposing this change to pilot time logging allowances, the FAA is acknowledging the value of the pilot experience gained by airmen who have been properly trained to serve as SIC in the air carrier environment. In Public Law 111-216, Congress directed the FAA to ensure that applicants for an ATP certificate have received flight training, academic training, or operational experience that will prepare the pilot to, among other things, function effectively in a multi-pilot environment, adhere to the highest professional standards, and function effectively in an air carrier operational environment. In addition, the Public Law directed that all part 121 flightcrew members must have an appropriate amount of multiengine flight experience, as determined by the Administrator.

The FAA believes, within an appropriate training and mentoring environment, this proposal would support the Congressional directive and provide an effective method to acquire experience for ATP certification and prepare pilots for a career as a professional pilot. The experience gained from working with and learning from a part 135 flight instructor in a crew

²⁶ As currently provided in the Ameriflight exemption, pilots logging time under this proposal would be permitted to use the flight time for the purpose of upgrading from SIC to PIC in part 135 operations. Exemption No. 9770D.

configuration would create valuable experience. This proposal would provide an additional option for commercial pilots seeking to meet the minimum aeronautical experience requirements for the ATP certificate while also providing a strong foundational experience for a developing professional pilot.

The FAA is proposing to revise § 61.159(c)(1) to set forth the requirements for logging SIC pilot time in an operation that does not require an SIC by type certification of the aircraft or the regulations under which the flight is being conducted. Current § 61.159(c) (former § 61.145) was first added to the regulations in a 1969 final rule. 34 FR 17162 (October 23, 1969). Until that time, SICs were permitted to log only 50 percent of their flight time toward a certificate or rating. The 1969 final rule permitted SICs in part 121 operations to log 100 percent of their flight time in airplanes required to have more than one pilot by their approved airplane flight manual or airworthiness certificate.²⁷

In 1973, the FAA revised § 61.51 (former § 61.39) to permit all SICs – not just those in part 121 operations – to log 100 percent of flight time as SIC in aircraft on which more than one pilot is required by the type certification of the aircraft or the regulations under which the flight is conducted. 38 FR 3156 (February 1, 1973). When the FAA expanded § 61.51 to include all SICs, it did not remove the more limited provision that applied only to part 121 SICs in § 61.159(c)(1). Because that paragraph provides the same allowance for logging SIC flight time as is currently reflected in § 61.51(f), the FAA is proposing to revise § 61.159(c)(1) to address the logging requirements for SICs in part 135 operations who are not required by type certification or the regulations under which the flight is being conducted.

²⁷ That final rule also added a provision that permitted flight engineers to log a portion of their flight engineer time toward the flight hour requirements for an ATP certificate.

The FAA is also proposing to revise the definition of pilot time in § 61.1 and the logging requirements in § 61.51(f) to reflect the allowance for SICs to log flight time in part 135 operations when not serving as required flightcrew members under the type certificate or regulations.²⁸ The FAA notes that, because International Civil Aviation Organization (ICAO) standards do not recognize the crediting of flight time when a pilot is not required by the aircraft certification or the operation under which the flight is being conducted, pilots who rely on flight time logged under an SIC PDP to meet the requirements for an ATP certificate must have a limitation on their ATP certificates indicating that they do not meet the PIC aeronautical experience requirements of ICAO. This limitation may be removed when the pilot presents satisfactory evidence that he or she has met the ICAO standards.

Because of the ICAO limitation, it is important that flight time logged under this proposal is accurately recorded in the pilot's logbook. For that reason, the FAA has proposed § 61.159(c)(1)(ii) which would require the PIC to certify in the SICs logbook that the flight time was accomplished under the requirements in § 61.159(c)(1). As currently happens, a designated pilot examiner, aircrew program designee, or FAA inspector when validating the pilot's flight time would be responsible for noting an ICAO limitation on a temporary airman certificate (Form 8060-4). In addition, the FAA is proposing to revise Form 8710-1 (Airman Certification and/or Rating Application) to include this time in the record of pilot time section.²⁹ The FAA is proposing to add a provision to § 61.39 that would require a pilot who has logged flight time

²⁸ The FAA also proposes to revise the definition of "pilot time" in § 61.1 to include training time from an authorized instructor in aviation training devices within the definition. The FAA likewise proposes to add aviation training devices to § 61.51(h) to accommodate the logging of training time in an aviation training device.

²⁹ The FAA anticipates it would revise FAA form 8710-1 as appropriate at the final rule stage to include a column or block where the total number of hours accomplished under § 61.159(c)(1) could be recorded along with the notice of the ICAO limitation.

under § 61.159(c)(1) to present a copy of the records required by § 135.63(a)(4)(vi) and (x) at the time of application for the practical test.

As proposed in § 61.159(c), an SIC logging time under this provision would not be permitted to log this flight time as PIC time even when he or she is the sole manipulator of the controls. The FAA is proposing, however, to revise § 61.51(e) to allow the part 135 flight instructor serving as PIC to log all of the flight time as PIC flight time even when the PIC is not the sole manipulator of the controls. Section 61.51(e)(1) permits a person who holds a sport, recreational, private, commercial, or airline transport pilot certificate to log PIC time when the pilot (1) is the sole manipulator of the controls of an aircraft for which the pilot is rated; (2) is the sole occupant of the aircraft, (3) is acting as PIC of an aircraft that requires more than one pilot by type certificate or the regulations under which the flight is being conducted, or (4) is undergoing an approved pilot-in-command training program and is performing the duties of pilot in command while under the supervision of a pilot in command. In addition, the holder of an ATP certificate who is rated to act as PIC may log all flight time while acting as pilot in command of an operation requiring an ATP certificate. 14 CFR 61.51(e)(2).³⁰ Without the proposed change to § 61.51(e), the part 135 flight instructor would not be permitted to log PIC flight time during those times when the SIC is the sole manipulator of the controls because the PIC of these operations would not be acting as PIC of an aircraft that requires more than one pilot.

³⁰ Currently, pilots are required to hold an ATP certificate to act as PIC in part 121 air carrier operations. Additionally, pilots must hold an ATP certificate to serve as PIC in operations conducted under §§ 135.243(a)(1) and 91.1053(a)(2)(i).

2. Completion of Commercial Pilot Training and Testing in Technically Advanced Airplanes

Introduction

Under the current requirements, an applicant for a commercial pilot certificate with airplane category single engine class rating must accomplish 10 hours of flight training in a complex airplane³¹ or in a turbine-powered airplane.³² 14 CFR 61.129(a)(3)(ii), appendix D to part 141. In addition, the Commercial Pilot Practical Test Standards for Airplane (as well as the Flight Instructor Practical Test Standards for Airplane) require a pilot to use a complex airplane for takeoff and landing maneuvers and appropriate emergency tasks for the initial practical test for a commercial pilot certificate with an airplane category.³³

Many pilots seeking a commercial pilot certificate in the airplane category take the initial practical test in a single engine airplane. Training providers have noted that there are far fewer single engine complex airplanes available to meet the practical test standards requirement, and the single engine complex airplanes that are available are older aircraft that are expensive to maintain. The FAA recognizes that accomplishing the required training in either a single engine

³¹ A complex airplane is defined as an aircraft with a retractable landing gear, flaps, and a controllable pitch propeller, including airplanes equipped with an engine control system consisting of a digital computer and associated accessories for controlling the engine and propeller. 14 CFR 61.1.

³² This option was added to the regulations in 1997. Pilot, Flight Instructor, Ground Instructor and Pilot School Certification Rules final rule, 62 FR 16220, April 4, 1997. In the preamble to the NPRM, the FAA explained that “some commercial pilot applicants may wish to complete their training in turbine-powered airplanes, and some military pilots may not have demonstrated procedures pertaining to the use of a controllable pitch propeller. Because a turbine-powered airplane does not necessarily have a propeller, training and demonstration of flight proficiency in such an airplane does not satisfy existing requirements. However, a turbine-powered airplane clearly meets the regulatory intent of requiring an applicant to demonstrate proficiency in a relatively complex airplane.” 60 FR 41160.

³³ The Commercial Practical Test Standards (FAA-S-8081-12C) for Airplane states that the applicant must furnish a complex airplane “unless the applicant currently holds a commercial pilot certificate with a single engine or multiengine class rating, as appropriate.”

complex airplane or turbine-powered airplane has become cost prohibitive for most flight schools.

Because § 61.45(b) requires a pilot to accomplish the practical test in an aircraft that is the appropriate category, class, and type (if applicable), pilots are not permitted to use a more readily available multiengine complex airplane during the single engine practical test at the commercial pilot level to accomplish the tasks and maneuvers that require a complex airplane.³⁴ Currently it is permissible for an applicant to take his or her initial commercial pilot practical test for the airplane category in the multiengine class and then seek an additional rating in the airplane single engine class, thereby avoiding the difficulty of furnishing a single engine complex airplane. However, the FAA notes that many pilots often do not apply for their initial commercial pilot certificate with a multiengine class rating because of the higher cost associated with gaining the aeronautical experience required by § 61.129(b)(3) and (4) in a multiengine airplane.

Related Rulemaking History

On August 31, 2009, the FAA published a NPRM in the Federal Register that proposed to replace the requirement for training in a complex airplane for commercial pilot applicants (both single engine and multiengine ratings) with a requirement for advanced instrument training. Pilot in command proficiency Check and Other Changes to the Pilot and Pilot School Certification Rules NPRM, 74 FR 44779. In discussing the proposed change, the FAA noted the complaints by training providers regarding the necessity to maintain older single engine complex airplanes. The FAA also acknowledged in the NPRM that general aviation aircraft manufacturers

³⁴ See Legal Interpretation to Ian Robert Dean, February 15, 2013.

are no longer producing as many single engine airplanes with retractable gear but are instead producing aircraft with “glass cockpits,”³⁵ which are also referred to as technically advanced aircraft (TAA).³⁶

The FAA received a variety of comments in response to the proposed change. Although several commenters supported the change based on the high cost of maintaining older single engine complex airplanes and the perceived value of requiring additional instrument training, other commenters opposed the change citing the potential for an increase in gear-up landing incidents and the fact that training in a complex airplane is essential for safety because most pilots will encounter a complex airplane during their careers. The FAA withdrew the proposed changes in the final rule citing the need to further analyze the comments received on the proposed revision. 76 FR 54096 (August 31, 2011). The FAA noted that it would consider the matter further and possibly publish an NPRM in the future.

Basis for Current Proposal

Since the 2011 final rule, various pilot associations have made public statements on behalf of their members, expressing disappointment in the agency’s decision to withdraw the proposal set forth in the 2009 NPRM. Various individuals and pilot organizations have reiterated

³⁵ “Glass Cockpits” refer to an aircraft with a flight deck LCD display system that incorporates a combined flight instrument information that includes navigation information. An example is a primary and multifunction flight display. (PFD and MFD systems). This can include an integrated autopilot. Reference Instrument Flying Handbook FAA-H-8083-15B Chp. 8 pg 18.

³⁶ The General Aviation Technically Advanced Aircraft FAA – Industry Safety Study published August 22, 2003, defines TAA as aircraft with a minimum of an IFR-certified GPS navigation system with a moving map display, and an integrated autopilot. Most include a primary flight display that integrates all of the following flight instruments together: airspeed indicator, turn coordinator, attitude indicator, directional gyro, altimeter, and vertical speed indicator. Some TAAs also have a multi-function display that shows weather, traffic and terrain graphics. In general, TAAs are aircraft in which the pilot interfaces with one or more computers in order to aviate, navigate, or communicate.

concern over the costs associated with the upkeep of aging complex single engine airplanes that are unavailable (or are cost prohibitive) due to the decrease or discontinuance of manufacture of these aircraft. The FAA has also received multiple exemption requests that seek relief from § 61.45(b) and the requirement to use a single engine complex airplane during the commercial and flight instructor practical tests. While these requests have been denied because they have not met the regulatory criteria for an exemption, they provide additional examples of ongoing industry concern over the lack of flexibility provided by the current requirement to furnish a complex single engine airplane for use during training and testing for these certificates and ratings.

With the prominence of airplanes equipped with glass cockpits (i.e. TAA) in today's general aviation aircraft fleet, the FAA believes it is appropriate to permit the use of certain TAA to complete the training required in § 61.129(a)(3)(ii) and appendix D to part 141 as well as to meet the requirements of the commercial single engine airplane pilot and flight instructor practical test standards.

i. Definition of Technically Advanced Airplane

The FAA recognizes the emerging and continuing trend in general aviation aircraft manufacturing to produce most new aircraft with advanced avionics systems. The previously typical individual six-flight instrument configuration (six-pack) is becoming unavailable in current general aviation manufacturing. The NTSB safety study Introduction of Glass Cockpit Avionics Into Light Aircraft published in 2010 indicated that “the transition to glass cockpits in Federal Aviation Administration (FAA)-certified light aircraft” began in 2003 when Cirrus Design Corporation started delivering single-engine piston airplanes with electronic primary

flight displays (PFD). Other manufacturers, including Cessna Aircraft Company, Piper Aircraft Incorporated, Mooney, and Hawker Beechcraft soon followed suit. The NTSB study further referenced General Aviation Manufacturers Association data showing that “by 2006, more than 90 percent of new piston-powered, light airplanes were equipped with full glass cockpit displays.”³⁷ Indeed, the Cessna Aircraft Corporation has produced “glass cockpit only” piston driven aircraft since 2006. According to the General Aviation Manufacturers Association, these Cessna piston aircraft totaled 3,696, as delivered through 2012. Piper Aircraft Inc. also delivers almost exclusively glass cockpit configurations, except for some limited requests from international flight school customers for the previously traditional independent six-flight instrument configuration.³⁸

This trend toward exclusive production of airplanes with glass cockpits (TAA) is due to an increase in demand for advanced avionics cockpit platforms by general aviation consumers.³⁹ At the same time, there has been a significant decrease in the production of single engine complex airplanes.⁴⁰ The FAA understands the decrease in single engine complex airplane manufacturing is due, at least in part, to newer airframe and power plant technologies that allow for aircraft to achieve higher performance (e.g., airspeed, reduced fuel consumption, etc.)

³⁷ General Aviation Airplane Shipment Report, End-of-Year 2006 (Washington, DC: General Aviation Manufacturers Association, 2007) indicates that 92 percent of the 2,540 piston airplanes delivered during 2006 were equipped with glass cockpit electronic flight displays.

³⁸ The six-flight instrument configuration includes a separate airspeed indicator, attitude indicator, altimeter, turn coordinator, heading indicator, and vertical speed indicator.

³⁹ An Aircraft Owners and Pilots Association Air Safety Foundation Special Report titled “Technically Advanced Aircraft – Safety and Training” states “virtually every newly designed transportation airplane is a TAA, including Lancair, Cirrus, Diamond, and the Adam 500 * * * Many owners are retrofitting their classic aircraft to convert them to TAA with IFR-certified GPS navigators and multifunction displays.”

⁴⁰ The General Aviation Manufacturers Association Web site shows Cessna has not produced a piston engine retractable gear airplane since 1985 and Piper has produced only 28 piston engine airplanes with retractable gear since 2008 (16 being the Piper Arrow model). Production for Beechcraft is also at an all-time low for piston single engine airplanes with retractable gear.

without the manufacturing and maintenance costs associated with a retractable gear system that is characteristic of a complex airplane. Cirrus Aircraft has delivered 5,326 aircraft with this fixed gear configuration as of 2012.⁴¹

To date, the FAA has primarily used the term “glass cockpits” when referring to airplanes equipped with these advanced avionics components such as a primary flight display (PFD) and multi-function display (MFD). For example, the Instrument Flying Handbook acknowledges that PFDs and MFDs “are changing not only what information is available to a pilot but also how that information is displayed.” Moreover, the executive summary to the NTSB’s Introduction of Glass Cockpit Avionics in Light Aircraft, provides that “in a span of only a few years, the cockpits of new light aircraft have undergone a transition from conventional analog flight instruments to digital-based electronic displays,” which “integrate aircraft control, autopilot, communication, navigation, and aircraft system monitoring functions, applying technology previously available only in transport-category aircraft.”⁴²

In an FAA-Industry Safety Study published in 2003, the FAA defined TAA as “a General Aviation aircraft that contains the following design features: Advanced automated cockpit such as MFD or PFD or other variations of a Glass Cockpit, or a traditional cockpit with GPS navigation capability, moving map display and autopilot.”⁴³ The FAA is proposing to require a certain level of complexity for TAA by proposing to define TAA in the regulations and, thereby, mandating certain functionalities when used for commercial pilot training and the practical test.

⁴¹ General Aviation Manufacturers Association published statistics (<http://www.gama.aero/>)

⁴² NTSB Safety Study # SS-10/01

⁴³ General Aviation Technically Advanced Aircraft, FAA-Industry Safety Study: Final Report of TAA Safety Study Team, [http://www.faa.gov/training_testing/training/fits/research/media/TAA Final Report.pdf](http://www.faa.gov/training_testing/training/fits/research/media/TAA%20Final%20Report.pdf) (Washington, DC: Federal Aviation Administration, 2003).

Notwithstanding the previous use of terms such as glass cockpit and electronic flight instrument displays, the FAA is proposing to adopt an updated definition of “technically advanced airplane” in § 61.1 based on the common and essential components of advanced avionics systems equipped on the airplane, including a PFD, MFD and an integrated two axis autopilot. These components would be required in order to ensure the TAA used to meet the aeronautical experience requirements for commercial pilots in § 61.129(a)(3)(ii) and appendix D to part 141, as well as the related practical test standards, as amended, have the necessary level of complexity comparable to the traditional single engine complex airplane.

TAA would be required to include a PFD that is an electronic display integrating all of the following flight instruments together: an airspeed indicator, turn coordinator, attitude indicator, heading indicator, altimeter, and vertical speed indicator. Additionally, an independent MFD must be installed that provides a GPS with moving map navigation system and an integrated two axis autopilot.⁴⁴ In general, the pilot interfaces with one or more computers in order to operate, navigate, or communicate. The proposed definition of TAA would apply to permanently-installed equipment and would not apply to any portable electronic device. The FAA recognizes the continuing advancements in aircraft avionics and the need for a pilot to be proficient with modern cockpit equipment and automation. As proposed, the FAA would define the term TAA as an airplane with an electronic PFD and an MFD that includes, at a minimum, a GPS moving map navigation and integrated two-axis autopilot.

In addition to adding a definition of TAA to § 61.1, the FAA is proposing to amend the existing training requirements to permit the use of a TAA instead of a complex or turbine-

⁴⁴ The MFD may also include additional capabilities such as depicting weather, traffic, terrain, navigation aids and airport information, but these capabilities are not necessary to meet the proposed definition.

powered airplane by commercial pilot applicants seeking an airplane category single engine class rating. In addition to the regulatory changes, the FAA would revise the practical test standards for commercial pilot applicants and flight instructors seeking an airplane category single engine class rating.

ii. Amendment to Aeronautical Experience Requirement for Commercial Pilots

The FAA proposes to amend the current requirement found in § 61.129(a)(3)(ii) and appendix D to part 141 to complete 10 hours of training in a complex or turbine-powered airplane. As proposed, the FAA would permit a pilot seeking a commercial pilot certificate with an airplane category single engine class rating to complete the 10 hours of training in a TAA. With this amendment, a pilot seeking a commercial pilot certificate with a single engine class rating could complete all 10 hours in a complex airplane, a turbine-powered airplane, or a TAA, or could complete the 10 hours of training in any combination of these three airplanes. The FAA believes that demonstration of proficiency in an airplane that is electronically complex (i.e., those that would meet the proposed definition of a TAA) will be comparable to the demonstration of proficiency in an airplane that is mechanically complex (i.e., those that meet the current definition of a complex airplane).

Providing the TAA alternative to the training requirements for a commercial pilot certificate with an airplane category single engine class rating is appropriate because advanced avionics in TAA create a level of complexity that would be equal to or greater than the mechanical complexity found in traditional complex airplanes. The FAA contends that, as avionics continue to advance, the need for training and checking in other categories of aircraft equipped with advanced avionics systems will continue to grow. Further, the FAA emphasizes

the importance of pilot and flight instructor proficiency in the advanced aircraft systems that are essential to the FAA's NextGen initiatives.⁴⁵

Complex airplanes, turbine-powered airplanes, and TAA all require the commercial pilot applicant to have an understanding of aircraft systems that are more complicated than the aircraft systems found in more basic airplanes that most private pilots learn to fly. Operation of a complex airplane requires the pilot to perform advanced plans of action with the gear, flaps, and propeller control in certain phases of flight (such as takeoff, landing, and emergency procedures). Failure to perform the correct action in a complex airplane could result in a degradation of the safety of flight, such as a gear up landing or achieving maximum aircraft performance during climb after takeoff. Similarly, a TAA demands the pilot perform functions with the advanced avionics such as programming, entering flight plans and autopilot management. If not accomplished in an efficient, proper, and timely manner, there is the potential for a loss of safety during the flight.

As another example, the failure of the pilot to recognize and respond properly to a failure of either the PFD or the MFD at a critical phase of flight (especially during marginal VFR conditions or instrument meteorological conditions (IMC)) could result in the pilot losing situational awareness and possibly leading to loss of control jeopardizing the successful completion of the flight. The FAA believes that demonstrating proficiency when operating a TAA provides at least an equivalent level of complexity compared to a complex airplane. Indeed, newly hired operations aviation safety inspectors are required to complete three weeks of glass

⁴⁵ FAA publication "NextGen Implementation Plan March 2012" or latest version. NextGen involves development of aviation-specific applications for existing, widely-used technologies, such as the Global Positioning System (GPS) and technological innovation in areas such as weather forecasting, data networking and digital communications.

cockpit training (in TAA). This commitment to TAA training reflects the FAA's acknowledgment of the importance of developing skills, understanding the complexity, and demonstrating knowledge required to safely operate these airplanes.

The proposed amendments to § 61.129(a)(3)(ii) and appendix D to part 141 for single engine airplane ratings do not impose any new regulatory requirements on pilots or part 141 pilot schools.⁴⁶ The FAA believes that applicants for the commercial pilot practical test or flight instructor practical test for a multiengine rating need to continue to demonstrate skill and proficiency in a complex airplane as defined in the practical test standards. For that reason, the FAA is not proposing to make any related substantive revisions to the requirement to use a complex or turbine-powered airplane to complete the training required for multiengine airplanes in § 61.129(b)(3)(ii) and appendix D to part 141, other than clarifying amendments to eliminate redundancies in the current regulatory text. As noted, the vast majority of multiengine airplanes are complex, and there should be no significant burden on these applicants to provide a multiengine complex airplane for the multiengine practical test.

iii. Amendments to Commercial Pilot and Flight Instructor Practical Test Standards

The FAA notes that the proposed amendments to § 61.129(a)(3)(ii) and appendix D to part 141 necessitate coordinated revisions to the practical test standards for commercial pilots and flight instructors. The Commercial Pilot Practical Test Standards for Airplane require a pilot to use a complex airplane for takeoff and landing maneuvers and appropriate emergency tasks for the initial practical test for a commercial pilot certificate with an airplane category. Similarly,

⁴⁶ Although commercial pilots who hold airplane category single engine class ratings may not have been trained or tested in a complex airplane, they would be required to obtain training and an endorsement under § 61.31 in order to act as PIC of a complex airplane.

the Flight Instructor Practical Test Standards for Airplane require an instructor candidate to use a complex airplane for the performance of takeoff and landing maneuvers as well as appropriate emergency procedures.

Because an applicant for a commercial pilot certificate with an airplane category single engine class rating would no longer be required to complete training in a complex airplane, the FAA would revise the practical test standards to permit the use of a TAA in place of a complex or turbine-powered airplane during the single engine airplane practical test. The FAA would also revise the flight instructor single engine airplane practical test standards to permit the flight instructor applicant to use a TAA during the practical test. The FAA acknowledges that no longer requiring flight instructors seeking an airplane category single engine class rating to take the practical test in a complex airplane could result in a flight instructor not being evaluated specifically on complex airplane tasks and maneuvers.

Although under the proposed rule an instructor would not necessarily be evaluated during the practical test in a complex airplane, the FAA believes that the current training and endorsement required to act as PIC of a complex airplane set forth in § 61.31, in conjunction with the flight instructor's demonstrated knowledge of the fundamentals of instruction, is sufficient to ensure that type of training is provided effectively. The FAA notes that this ability to provide training without having been evaluated on a practical test is consistent with other § 61.31 endorsements including high performance aircraft, tailwheel aircraft, or high altitude operations.

C. Flight Instructors with Instrument Ratings Only

Section 61.195 sets forth the limitations and qualifications for flight instructors. Under § 61.195(b), an instructor may not conduct flight training⁴⁷ in any aircraft for which the instructor does not hold a pilot certificate and flight instructor certificate with the applicable category and class ratings for the aircraft in which the training is being provided.⁴⁸ In addition to this requirement, § 61.195(c) requires that a flight instructor who provides instrument training for the issuance of an instrument rating, a type rating not limited to VFR, or the instrument training required for commercial pilot and ATP certificates must hold an instrument rating on his or her pilot certificate and flight instructor certificate that is appropriate to the category and class of aircraft used for the training.⁴⁹

In the 2009 final rule, the FAA modified § 61.195(c) to clarify that, in order to provide instrument training required for commercial pilot or ATP certification, an instructor must have an instrument rating on his or her flight instructor certificate. 74 FR 42500, 42561. In disposing of comments to the NPRM, the FAA made the following statement: “* * * a flight instructor who does not hold the appropriate airplane multiengine rating on his/her flight instructor certificate and the appropriate airplane category multiengine class rating on his/her pilot certificate may not

⁴⁷ “Flight training” is defined as “training, other than ground training, received from an authorized instructor in flight in an aircraft.” 14 CFR 61.1.

⁴⁸ To be eligible for a flight instructor certificate, a person must hold either: (1) a commercial pilot certificate with an aircraft category and class rating for the flight instructor rating sought and an instrument rating, or (2) an airline transport pilot certificate with an aircraft category and class rating appropriate to the flight instructor rating sought and instrument privileges appropriate to the flight instructor rating that is sought. As such, it is not possible for a person to hold a flight instructor certificate with a rating that the person does not first hold on his or her pilot certificate. If providing instruction in an aircraft that is type certificated, the instructor must hold the appropriate type rating on his or her pilot certificate. 14 CFR 61.195(b)(2).

⁴⁹ The FAA has distinguished instrument training for an instrument rating under § 61.65 and instrument training at the commercial pilot certificate level under § 61.129 from the training requirements for private pilots on “basic instrument maneuvers” under § 61.107 and “control and maneuvering of an airplane solely by reference to the instruments” under § 61.109. See Legal Interpretation to Taylor Grayson, July 6, 2010. A flight instructor does not need to hold an instrument rating to provide the training under §§ 61.107 and 61.109.

conduct instrument training in a multiengine airplane unless that flight instructor holds the appropriate airplane category multiengine class rating on his/her pilot certificate and flight instructor certificate.” 74 FR 42500, 42536.

Shortly after the final rule published, the FAA received a request for legal interpretation seeking clarification of whether a flight instructor who holds only an instrument-airplane rating on his or her flight instructor certificate may conduct instrument training in a single or multiengine airplane if he or she holds those ratings only on his or her commercial pilot certificate but not on his or her flight instructor certificate. See Legal Interpretation to Taylor Grayson, January 4, 2010. The FAA responded that, under § 61.195(b), a flight instructor may not conduct instrument flight training without holding on his or her flight instructor certificate the appropriate category and class ratings for the aircraft in which the instrument flight training is provided.⁵⁰

Despite this conclusion, FAA regulations permit a pilot to receive an initial flight instructor certificate with an instrument-airplane or instrument-helicopter rating without a corresponding category (airplane or rotorcraft) and class rating (single engine, multiengine, helicopter) on the flight instructor certificate.⁵¹ In addition, the FAA has indicated in guidance⁵²

⁵⁰ See Legal Interpretation to Taylor Grayson, January 4, 2010, which states “a flight instructor must have an instrument rating on his flight instructor certificate that is applicable to the aircraft category for which the instrument training is provided.” Additionally, Grayson states “under part 61.195 a flight instructor may not conduct instrument training in a multiengine airplane unless that flight instructor holds the appropriate airplane category multiengine class rating on his or her pilot certificate and flight instructor certificate.

⁵¹ The powered lift category does not contain any corresponding class ratings, on either a pilot certificate or flight instructor certificate, and thus would not be affected by this rulemaking proposal.

⁵² In Grayson, the FAA noted that FAA guidance was inconsistent with the current regulation. FAA Order 8900.1, Vol. 5, Chpt 2, Sec. 11, stated:

B. Class Ratings. Flight instructors who hold flight instructor certificates issued under part 61, which allow only instrument instructor privileges in airplanes, may give instrument flight instruction in any class airplane that is listed

that a flight instructor may provide instrument training in any class of airplane with only an instrument-airplane rating on the flight instructor certificate so long as the person receiving instruction holds category and class ratings for the aircraft in which the instruction is being given. In such instances where guidance is inconsistent with a regulation, the regulation controls.

However, due to the confusion between the regulation and guidance regarding the qualifications of a flight instructor who is providing instrument training, the FAA is proposing to revise § 61.195. Specifically, the FAA is proposing to revise § 61.195(b) and (c) to permit a flight instructor who holds only an instrument-airplane rating or instrument-helicopter rating on his or her flight instructor certificate to provide instrument training in an aircraft, flight simulation training device (which includes full flight simulators and flight training devices), or in an aviation training device. As proposed, the authorized instructor and the pilot receiving instrument training would need to possess category and class ratings on their pilot certificates that are applicable to the aircraft in which the instrument training is accomplished. The flight instructor would need to hold the category and class rating on his or her pilot certificate appropriate to aircraft in which instrument training is given at the commercial pilot or ATP certificate level.

For example, a pilot who holds an airplane category single engine-land class rating on his or her private pilot certificate would be able to receive instrument training in a single engine-land

without restriction on their pilot certificate. Instructors holding only a helicopter instrument rating on their flight instructor certificate are limited to conducting instrument flight instruction in helicopters.

C. Ratings Limited to Instrument. Instructors with ratings limited to instrument may not give instrument flight instruction to students who do not hold category and class ratings in the aircraft used. This would be instruction for the addition of a rating that conveys other than instrument privileges. These instructors may not certify logbooks or recommend applicants for any aircraft category or class rating.

airplane from a flight instructor who holds a single engine-land class rating on his or her commercial pilot (or ATP) certificate and an instrument-airplane rating on his or her flight instructor certificate. If the private pilot does not also hold a multiengine-land class rating, then in order to provide instrument training to that private pilot in a multiengine-land airplane, the flight instructor would be required to hold: (1) an instrument-airplane rating on his or her flight instructor certificate, and (2) an airplane category multiengine-land class rating on his or her flight instructor certificate.⁵³

Allowing a flight instructor with only an instrument rating on his or her flight instructor certificate to provide instrument training when the flight instructor and the pilot receiving instrument training hold the appropriate category and class ratings on their pilot certificates provides adequate assurance that instrument training can be conducted competently and safely because the pilot and the instructor would have each previously demonstrated proficiency during a practical test with an examiner in the category and class of aircraft in which the instrument training is conducted.⁵⁴

The FAA believes the fundamentals of instrument training (and the procedures) are a universal skill within a category of aircraft. The IFR procedures are fundamentally consistent within a particular category of aircraft and the same skills and rules apply to operate under IFR in the national airspace system. Obtaining a clearance, maintaining an attitude, altitude, speed,

⁵³ Likewise, if the pilot receiving instrument training held a multiengine-land class rating on his or her private pilot certificate but the flight instructor did not hold a multiengine-land class rating at the commercial pilot or ATP certificate level, the instructor – despite holding an instrument-airplane rating on his or her flight instructor certificate – would not be able to provide instrument training to that private pilot in a multiengine-land airplane.

⁵⁴ The FAA notes that, as is currently required, either the instructor or the pilot receiving instrument training must be able to act as pilot in command of the aircraft in which the training is provided, meaning that one of them must meet the recent experience requirements, have satisfied the necessary flight review and proficiency check, and hold any required endorsements (e.g., complex airplane) for the aircraft.

assigned course, following instructions from air traffic control (ATC), and other instrument skills are universal tasks for instrument flight in an aircraft. The ability of an instructor to teach instrument procedures in an aircraft for which he or she possesses an instrument rating on the flight instructor certificate would not be affected by the absence of aircraft category and class ratings on the flight instructor certificate.⁵⁵

In addition, a flight instructor with an instrument rating on his or her flight instructor certificate has demonstrated the required knowledge on the fundamentals of instruction (e.g. the learning process, elements of effective teaching, student evaluation and testing, course development, lesson planning and classroom training techniques). See 14 CFR 61.185(a)(1). Therefore, an instructor who holds only an instrument rating on his or her flight instructor certificate meets the same foundational criteria as a person who holds a flight instructor certificate with a category and class rating. This instructional knowledge is in addition to the knowledge and skills specific to the instrument rating and training tasks as provided in the Flight Instructor Instrument Practical Test Standards.⁵⁶

⁵⁵ The FAA notes that a flight instructor who holds only an instrument rating on his or her flight instructor certificate is not authorized to provide training to meet requirements for category and class ratings. For example, a flight instructor with only an instrument rating who is providing instrument training required under § 61.129(a)(3)(i) for a commercial pilot certificate with an airplane category single engine class rating is not authorized to provide training to meet requirements that are specific to the category and class of airplane. As such, an applicant for a commercial pilot certificate who receives instrument training from an instrument only instructor would need to obtain training on the areas of operation listed in § 61.127 from an instructor who holds the appropriate category and class for the rating sought. Additionally, the instrument only instructor may not endorse an applicant for a commercial pilot certificate to take the practical test.

⁵⁶ FLIGHT INSTRUCTOR INSTRUMENT Practical Test Standards for AIRPLANE and HELICOPTER, FAA-S-8081-9D U.S. Department [sic] with Change 1.

D. Light-Sport Aircraft Pilots and Flight Instructors

1. Sport Pilot Flight Instructor Training Privilege

To be eligible for a pilot certificate, a person must receive training from an authorized instructor on certain areas of operation. For instance, an applicant for a private pilot certificate with an airplane category single engine class rating must receive flight training on “basic instrument maneuvers” and “control and maneuvering an aircraft solely by reference to the instruments.” 14 CFR 61.107(b)(1)(ix); 61.109(a)(3). For that reason, a flight instructor authorized to provide flight training to a private pilot applicant (part 61, subpart H instructor) is evaluated during the flight instructor practical test on his or her instructional knowledge related to tasks and maneuvers performed solely by reference to the instruments.⁵⁷

Conversely, basic instrument maneuvers are not an area of operation for which sport pilot applicants must receive flight training. 14 CFR 61.311. As such, a sport pilot instructor (part 61, subpart K instructor) is not evaluated during the practical test on his or her instructional knowledge related to basic instrument maneuvers.⁵⁸

Notwithstanding this fact, there is a single circumstance under which a sport pilot must receive flight training on control and maneuvering solely by reference to the instruments. As with other student pilots, a sport pilot applicant must complete solo cross-country flight time to be eligible for the practical test for a sport pilot certificate. 14 CFR 61.313. Prior to accomplishing this solo cross-country flight time, sport pilot applicants must receive flight

⁵⁷ Flight Instructor Practical Test Standards for Airplane, FAA-S-8081-6D;
http://www.faa.gov/training_testing/testing/test_standards/media/FAA-S-8081-6D.pdf.

⁵⁸ Sport Pilot Practical Test Standards for Airplane, Gyroplane, Glider, and Flight Instructor, FAA-S-8081-29;
http://www.faa.gov/training_testing/testing/test_standards/media/FAA-S-8081-29.pdf

training from an authorized instructor on various maneuvers and procedures.⁵⁹ 14 CFR 61.93. For applicants for a single engine airplane rating, the maneuvers and procedures for a cross-country solo endorsement include flight training on control and maneuvering the airplane solely by reference to the instruments. 14 CFR 61.93(e)(12). Sport pilot applicants are not required to receive this specific training unless the airplane they are using to accomplish solo cross-country flight has a V_h (maximum speed in level flight with maximum continuous power) greater than 87 knots calibrated air speed (CAS). The FAA believes that sport pilot flight schools currently use flight instructors certificated under subpart H to provide training in these airplanes.

The FAA is proposing to authorize sport pilot instructors to provide training on control and maneuvering solely by reference to the instruments to sport pilot applicants receiving flight training for the purpose of solo cross-country requirements in an airplane that has a V_h greater than 87 knots CAS. Because a sport pilot instructor is not evaluated on this instructional knowledge, the FAA is proposing to require a sport pilot flight instructor to receive training and an endorsement from a flight instructor certificated under subpart H that affirms the sport pilot flight instructor has been found competent and is qualified to provide flight training on tasks and maneuvers performed solely by reference to the flight instruments. A subpart H instructor is necessary to provide the training and endorsement to a sport pilot flight instructor because the subpart H flight instructor is instrument rated and would be knowledgeable on the appropriate techniques for safely accomplishing flight by reference to the flight instruments. The FAA is not requiring a sport pilot flight instructor to receive this endorsement. The endorsement would only

⁵⁹ To accomplish solo cross-country flight time, a sport pilot must obtain a student pilot certificate, receive flight training, and obtain an endorsement from an authorized instructor. 14 CFR 61.93.

be required if the sport pilot flight instructor seeks the privilege of providing training to sport pilot applicants on maneuvering solely by reference to the flight instruments.

The proposed endorsement would require the sport pilot flight instructor to receive a minimum of 1 hour of ground training and 3 hours of flight training.⁶⁰ The hour of ground training should emphasize a flight instructor's role, risk, and responsibilities in providing this type of training, evaluation and authorization. This basic instrument flight training should involve flight training for the purpose of giving instruction on control and maneuvering solely by reference to the instruments including straight and level flight, turns, descents, climbs, use of radio aids, and air traffic control directives. 14 CFR 61.93(e)(12). The FAA believes that the sport pilot flight instructor already has demonstrated proficiency in the fundamentals of instruction and course development. The endorsement would ensure that the sport pilot instructor has received appropriate training and assessment from an authorized Subpart H instructor to enable the sport pilot flight instructor to provide this training effectively and safely.

The FAA is proposing to add new § 61.412 that would establish training and endorsement requirements for those sport pilot flight instructors who want to provide training for sport-pilot applicants on control and maneuvering solely by reference to the flight instruments. This training is not required. Rather, the proposed change would allow a flight instructor with only sport pilot rating to provide all the training requirements for the sport pilot certificate. The FAA is proposing to revise § 61.415 by adding a new paragraph (h) to clarify that a sport pilot

⁶⁰ Private pilot applicants have a similar requirement under § 61.109(a)(3) that requires 3 hours of flight training in a single-engine airplane on the control and maneuvering of an airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight.

flight instructor may not conduct flight training on control and maneuvering an aircraft solely by reference to the instruments in an airplane that has a V_h greater than 87 knots CAS without meeting the requirements in proposed § 61.412. Because a sport pilot flight instructor is not currently authorized to provide this training, the FAA is not placing any new limitation on sport pilot flight instructors.

The FAA is proposing to make a corresponding change to § 91.109(c). Under that section, no person may operate a civil aircraft in simulated instrument flight unless the other control seat is occupied by a safety pilot who possesses at least a private pilot certificate with category and class ratings appropriate to the aircraft being flown. As such, a flight instructor with a sport pilot rating only (who holds no other pilot certificates) cannot currently act as safety pilot in simulated instrument flight. As proposed, the FAA would revise § 91.109(c) to permit a sport pilot instructor who has obtained the endorsement proposed in § 61.412 to serve as a safety pilot only for the purpose of providing flight training on control and maneuvering solely by reference to the instruments to a sport pilot applicant seeking a solo endorsement in an airplane with a V_h greater than 87 knots CAS. This serves the purpose of qualifying the sport pilot student for solo cross-country endorsement.

2. Credit for Training Obtained as a Sport Pilot

In the NPRM that proposed to establish the certification and qualification requirements for sport pilots, the FAA indicated that a pilot would be able to credit “training time and aeronautical experience logged as a sport pilot” toward the requirements for higher certificates in accordance with the logging requirements in § 61.51. 67 FR 5368, 5411 (February 2, 2002).

Under § 61.51(h), a person may log training time when that person receives training from an authorized instructor in an aircraft, full flight simulator, or flight training device.⁶¹

A sport pilot instructor is authorized, within the limits of his or her certificate, to provide training and endorsements required for: (1) a student pilot seeking a sport pilot certificate; (2) a sport pilot certificate; (3) a flight instructor certificate with a sport pilot rating; (4) a powered parachute or weight-shift control aircraft rating; (5) sport pilot privileges; (6) a flight review or operating privilege for a sport pilot; (7) a knowledge test or practical test for a sport pilot certificate; (8) a private pilot certificate with a powered parachute or weight-shift-control aircraft rating or a flight instructor certificate with a sport pilot rating; and (9) a proficiency check for an additional category or class privilege for a sport pilot certificate or flight instructor certificate with a sport pilot rating. 14 CFR 61.413.

A sport pilot instructor, therefore, is not authorized to conduct training for a recreational pilot certificate or a private pilot certificate with airplane, rotorcraft, glider, or lighter-than-air category ratings. As such, under § 61.51(h), a pilot may not count flight training received from a flight instructor with only a sport pilot rating (subpart K instructor) towards the training requirements for a recreational pilot certificate or a private pilot certificate with category ratings other than powered parachute and weight-shift control aircraft.⁶²

⁶¹ An authorized instructor for purposes of a sport pilot certificate includes a flight instructor certificated under subpart H of part 61 and a sport pilot instructor certificated under subpart K of part 61 provided the instructor holds the appropriate ratings for the aircraft in which the training is being provided.

⁶² A pilot may, however, count hours accumulated as a sport pilot toward the flight time (as opposed to flight training) requirements for a higher certificate in accordance with the requirements in § 61.51.

Under current regulations, however, if a pilot receives flight training in a light-sport aircraft⁶³ for a sport pilot certificate from an instructor who is also authorized to provide training for a private pilot certificate (subpart H instructor), the flight training provided by that instructor may “be credited toward the flight training requirements for a corresponding private pilot certificate, provided the instructor has met all applicable requirements necessary to provide that instruction at the private pilot level.” See Legal Interpretation from Rebecca B. MacPherson to Tim Kern, July 24, 2009. By permitting this training time to be logged toward both certificates, the FAA has recognized that “many of the areas of operation on which an applicant for a sport pilot certificate is required to receive training are identical to those on which an applicant for a private pilot certificate is also required to receive training.” Kern Interpretation.

In January 2011, the Aircraft Owners and Pilots Association, the Experimental Aircraft Association, the General Aviation Manufacturers Association and the National Association of Flight Instructors petitioned the FAA to allow pilots to credit the flight training received from a sport pilot instructor towards the training requirements for recreational pilot and private pilot certificates.⁶⁴ As suggested in the petition, flight training obtained while training for a sport pilot certificate would be eligible toward some of the hours of flight training required for these higher certificates. The petitioners stated that, by allowing training received in pursuit of a sport pilot certificate to be credited toward the training requirements of higher certificates, there would be greater incentive to pursue these higher certificates, thereby enhancing safety and encouraging involvement in a wider range of aviation activities.

⁶³ The requirements of a light-sport aircraft are defined in 14 CFR 1.1.

⁶⁴ <http://www.regulations.gov>; Docket No. FAA-2011-0138.

Under current regulations, to obtain a sport pilot certificate with airplane category single engine (land or sea) class privileges, rotorcraft category gyroplane class privileges, or lighter-than-air category airship class privileges, a pilot must complete 20 hours of flight time including at least 15 hours of flight training from an authorized instructor on various areas of operation.⁶⁵ A sport pilot's flight training involves takeoffs and landings to a full stop, cross-country flight requirements, and solo flight time in a light-sport aircraft.⁶⁶ Finally, a sport pilot applicant must demonstrate proficiency on certain tasks and maneuvers during a practical test. 14 CFR 61.313.

An applicant for a recreational pilot certificate or a private pilot certificate must complete flight training on many of the same tasks and maneuvers required for a sport pilot certificate. In fact, many of the tasks and maneuvers outlined in the practical test standards for a sport pilot mirror the requirements in the practical test standards for recreational or private pilots. For example, ten of the twelve areas of operation required in the airplane practical test standards for private pilot are also listed in the airplane practical test standards for sport pilot. These areas of operation must be performed to identical proficiency standards. As with sport pilot applicants, the flight training for recreational and private pilot certificates includes cross-country flight time, takeoffs and landings to a full stop, and solo flight time. 14 CFR 61.99, 61.109.

Because of the common areas of operation and proficiency standards in flight training for sport pilots, recreational pilots, and private pilots, the FAA is proposing to revise § 61.99 and add new paragraph (l) to § 61.109 to allow flight training received from a sport pilot instructor

⁶⁵ To obtain a sport pilot certificate with a lighter-than-air category balloon class privileges, a pilot must complete 7 hours of flight time that includes three flights with an authorized instructor. To obtain a sport pilot certificate with glider category privileges, a pilot must complete 10 hours of flight time including 10 flights with an authorized instructor if the pilot has less than 20 hours of flight time in a heavier-than-air aircraft.

⁶⁶ Light-sport aircraft used for sport pilot training function the same as other certificated aircraft. In fact, a person could use a light-sport aircraft to accomplish training for a private pilot certificate if he or she chose.

who does not also hold a flight instructor certificate issued under the requirements in subpart H to be credited towards a portion of the flight training requirements for a recreational or private pilot certificate with airplane, rotorcraft, or lighter-than-air categories.⁶⁷ Any training received from a sport pilot instructor that would be credited under this proposal must be completed in an aircraft appropriate to the category and class rating for the recreational or private pilot certificate sought.

The following table reflects the current regulatory flight training hour requirements for recreational pilots and private pilots for specific categories and classes of aircraft. The last column reflects the sport pilot flight training hours that the FAA is proposing to allow a sport pilot to credit toward those higher certificates.

Table 2: Current and Proposed Flight Training Hour Requirements

Aircraft Categories	Current Recreational Pilot requirements	Current Private Pilot requirements	Sport pilot training proposed to be credited
Airplane category – Single Engine	15 hours of training	20 hours of training	10 training hours
Rotorcraft category – Gyroplane	15 hours of training	20 hours of training	10 training hours
Lighter-than-air category – Airship	No rating at recreational pilot certificate level.	25 hours of flight training	12.5 training hours
Lighter-than-air category – Balloon	No rating at recreational pilot certificate level.	10 hours of flight training including six training flights with an authorized instructor	5 hours of flight training including three training flights with an authorized instructor.

⁶⁷ The FAA notes this situation is different from logging requirements for higher certificate levels. Generally, a pilot may use all of his or her flight time to meet the total minimum flight hours for a certificate when applying for a higher pilot certificate. For example, a pilot who has 80 total flight hours when he or she passes the practical test for a private pilot certificate may count those 80 hours toward the 250 hours of flight time required to apply for a commercial pilot certificate. Training time accomplished prior to private pilot certification, however, may not be used to meet the training requirements for a commercial pilot certificate. See Legal Interpretation from Rebecca B. MacPherson to Richard Theriault, October 8, 2010.

In proposing this change, the FAA acknowledges that, notwithstanding the number of common training tasks, a private pilot applicant is trained and tested on certain tasks and maneuvers above those that are required for a sport pilot certificate including 3 hours of night training, 3 hours of flight by reference to instruments, operations at an airport with an operating control tower, and some additional cross-country time requirements.⁶⁸ For that reason, the FAA is proposing to permit a sport pilot to credit only a portion of the flight training toward higher certificates. The FAA is not proposing to expand the privileges of a flight instructor who holds only a sport pilot rating, other than as discussed previously in section III.D.1 of this preamble, which proposes to authorize sport pilot instructors to provide training on control and maneuvering solely by reference to the instruments to sport pilot applicants receiving flight training for the purpose of solo cross-country requirements, subject to certain conditions. Rather, the FAA is proposing to allow a pilot to credit a portion of flight training received from a sport pilot instructor toward the training hour requirements for higher certificates. As under current procedures, a designated pilot examiner would be required to validate an applicant's eligibility before administering the practical test.

The FAA believes that there are sufficient safeguards including successful completion of a knowledge test and practical test to prevent any reduction in safety. The applicant for a recreational or private pilot certificate would still be required to complete all the requirements for that specific certificate or rating, including the appropriate aeronautical experience requirements, aeronautical knowledge requirements, flight proficiency standards, and preparation for the practical test. For example, a person with a sport pilot certificate with an airplane category single

⁶⁸ Night and instrument time are not required for balloon, powered parachute, or weight-shift control aircraft at the private pilot certification level.

engine-land class rating applying for a private pilot certificate with airplane category single engine-land class rating would need flight training from a subpart H flight instructor for private pilot tasks including, but not limited to, night, cross-country, tower operations, flight solely by reference to the flight instruments, and preparation for the practical test.

In addition to completing the aeronautical experience requirements with a flight instructor certificated under subpart H, an applicant for a recreational or private pilot certificate would be required to receive a minimum of three hours of training within 60 days of the practical test from a flight instructor certificated under subpart H. A flight instructor certificated under subpart H would be required to conduct training on all the areas of operation for a private pilot certificate and certify that the applicant is prepared for the practical test. 14 CFR 61.103(f). Moreover, only a subpart H flight instructor could recommend the applicant for the recreational or private pilot practical test. Ultimately, the practical test provided by an FAA designated pilot examiner would provide confirmation that the pilot has achieved the appropriate level of proficiency required for the higher pilot certification.

The FAA believes the additional training required and provided by a subpart H instructor, and the requirement for the applicant to pass a knowledge test and practical test to the standards required for that higher certificate, would ensure an appropriate level of experience, proficiency and safety.

As an alternative to this proposal, the FAA considered allowing all training received from a sport pilot instructor to be credited by an applicant seeking a recreational or private pilot certificate. An applicant would still be required to obtain a minimum of three hours of training in preparation for the practical test (within the preceding 2 calendar months) from a flight instructor

under subpart H, as well as be endorsed by a flight instructor under subpart H as being prepared for the required practical test. The FAA solicits public comment, and any associated data, on this alternative.

E. Pilot School Use of Special Curricula Courses for Renewal of Certificate

The FAA may issue an initial pilot school certificate to a provisional pilot school or may renew a pilot school certificate provided the applicant meets the requirements of § 141.5. Section 141.5(d) currently requires, within the preceding 24 calendar months, the pilot school applicant to have established a pass rate of 80 percent or higher on the first attempt for all knowledge tests leading to a certificate or rating, practical tests leading to a certificate or rating, or end-of-course tests for an approved training course specified in appendix K of that part before the FAA may issue or reissue a pilot school certificate. In addition, § 141.5(e) requires the pilot school applicant to have graduated at least 10 different people from the school's approved training courses within the previous 24 calendar months. If an applicant for renewal does not meet the quality of training requirements in § 141.5(d) and the recent training ability requirements in § 141.5(e), the FAA may issue a provisional pilot school certificate in accordance with the requirements in § 141.7.⁶⁹ 14 CFR 141.27(a)(3).

Section 141.53 prescribes the general procedures for a pilot school (or provisional pilot school) concerning the outline of each training course for which the school seeks FAA approval. Often these approved courses lead to a certificate or rating under part 61 or are specific courses set forth in appendix K to part 141 such as training for agricultural aircraft and rotorcraft

⁶⁹ Section 141.27 contains the standards for renewing a pilot school certificate. The FAA may renew a pilot school certificate if, among other things, the pilot school meets the "recent training ability and quality" of part 141.

external-load operations. Section 141.57 also permits a school to receive approval of a special curriculum course. The FAA has approved numerous special curricula courses under § 141.57 that do not lead to a pilot certificate or rating such as crew resource management, the use of night vision goggles, high performance aircraft training, complex airplane training, turbo-prop transition training, and tail-wheel training. While the FAA is able to approve these courses, and both provisional pilot schools and pilot schools are able to graduate students from these courses, they do not lead to a certificate or rating for the pilots nor are they listed in appendix K to part 141. Therefore, under § 141.5, the graduates that complete these special curricula courses currently may not be counted when calculating the 80 percent pass rate required for issuance or renewal of a pilot school certificate.

Although these special curricula courses do not result in a certificate or rating for the individual pilot, they do require the pilot school to develop a course curriculum, and an FAA Principal Operations Inspector must review and approve the course. In some instances the completion of the course leads to a required logbook endorsement such as a tail-wheel, complex, or high performance endorsement. In other cases, the course is designed to improve a pilot's skills in certain areas and environments such as crew resource management, aerobatics, or mountain flying. If a provisional pilot school is certificated on the basis of special curriculum courses alone, the school will not be able to meet the renewal criteria of § 141.5(d) because the courses do not involve testing for a certificate or rating and are not courses listed in appendix K

of part 141.⁷⁰ The FAA believes there is a necessity to support part 141 pilot schools that provide instruction for special curriculum courses under § 141.57.

Therefore, the FAA is proposing to amend § 141.5(d) to allow part 141 pilot schools that hold training course approvals for special curricula courses to renew their certificates based on their students' successful completion of an end-of-course test for these FAA approved courses. This proposed change would expand the opportunity for pilot schools to maintain part 141 certification and reduce the number of exemption requests submitted to the FAA. The FAA developed part 141 to allow for expanded oversight and the promotion of structured pilot training courses. The Principal Operations Inspector who approves the special curricula course would provide continued oversight and validity of these programs, as is done with any course approved under part 141. Allowing pilot schools to renew their certificates based on special curricula course graduations promotes this type of organized training and FAA oversight of pilot training activities.

If a student fails the end-of-course test for that special curricula course, the student would be recorded as a failure for purposes of calculating the 80 percent pass rate. The FAA believes that this is reasonable due to the fact that special curricula courses do not contain the specific training requirements found in the appendices to part 141. The FAA proposes to modify § 141.5(d) accordingly.

⁷⁰ Some pilot schools have previously requested exemptions from § 141.5 in order to be eligible for the issuance or renewal of a pilot school certificate. The FAA has generally denied these petitions. One exemption was granted to a balloon pilot school that had graduated nine students from 22 different courses and had a 100% pass rate for the pilot certification of their students (Exemption No. 10155A). The exemption was granted due to the limited number of students that receive balloon pilot training and the continuing need for a balloon school in the area. Another exemption was granted to a pilot school in Guam on the basis that there were no other pilot schools in the geographic area (Exemption No. 10435).

Allowing this additional method of part 141 pilot school renewal would benefit schools that only provide special curricula courses, without requiring an additional certificate course approval that would add cost and complexity to the pilot school operation. Benefits would include promotion of FAA approved pilots schools and increase in available FAA-approved training courses.

The FAA notes that FAA web-based Operations Safety System (WebOPSS) authorizations are available for part 141 schools and can be a method of providing approvals for special curricula courses and other authorizations provided to pilot schools.

F. Temporary Validation of Flightcrew Members' Certificates by Part 119 Certificate Holders Conducting Operations under parts 121 or 135

Current regulations require a person who serves as a required pilot flightcrew member of a United States civil aircraft to have a pilot certificate in his or her physical possession or readily accessible in the aircraft when exercising the privileges of that certificate. 14 CFR 61.3(a). The regulations also require a person who serves as a required pilot flightcrew member to have an appropriate medical certificate and government-issued photo identification in his or her physical possession or readily accessible in the aircraft. 14 CFR 61.3(c). In the case of a lost or stolen airman certificate or medical certificate, § 61.29(e) permits a pilot to request a document conveying temporary authority to exercise certificate privileges, which may be carried as an airman certificate or medical certificate for up to 60 days. Requests for these temporary documents can be made to the FAA Aeromedical Certification Branch or the Airman Certification Branch, as appropriate.

For airman certificates, this request can be accomplished online through Airman Online Services⁷¹ or by letter to the Airmen Certification Branch.⁷² When using Airman Online Services, the Airman Certification Branch can immediately issue a document by fax or email that is valid for 60 days and provides temporary authority to exercise the privileges of a pilot certificate to an airman.

Although the temporary document obtained from the Airman Certification Branch through the Airman Online Services website also reflects the airman's medical certificate information, this document is not a sufficient verification of an airman's medical certificate. An airman still must obtain 60-day temporary authority of medical certification from the Aeromedical Certification Branch, which is only available by fax or mail.⁷³ Under the current process, a pilot can make a phone call during normal business hours requesting a temporary 60-day document for the medical certificate, which can be faxed to the airman. Currently there is no FAA online service available to request a temporary document confirming medical certification.

If a pilot does not have a pilot certificate (or a document issued under § 61.29 conveying temporary authority), medical certificate, and government-issued photo ID in his or her physical possession, a flight cannot be conducted with that person acting as PIC or SIC. Since 1992, the

⁷¹ The FAA airman services Web site (<https://amsrvs.registry.faa.gov/amsrvsLogon.asp>) states that “* * * you may request temporary authority to exercise certificate privileges of a valid airman and/or medical certificate or verification of an expired flight instructor certificate in the form of a facsimile (FAX) or e-mail. This authority will be valid for 60 days pending receipt of a permanent replacement certificate or reinstatement of an expired flight instructor certificate. Only one (1) on-line request for temporary authority can be obtained within any six (6) month period.”

⁷² When a request is made by letter, the Airman Certification Branch issues a replacement certificate rather than providing a document conveying temporary authority.

⁷³ Under § 61.29(b), a request for the replacement of a lost or destroyed medical certificate must be made by letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125, or in any other manner and form approved by the Administrator.
http://www.faa.gov/licenses_certificates/airmen_certification/contact_airmen_certification/

FAA has issued exemptions to part 119 certificate holders conducting operations under parts 121 and 135 to permit them to issue temporary verification documents to flightcrew members who do not have their airman certificates or medical certificates in their personal possession for a particular flight.⁷⁴ The FAA has determined that good cause exists to issue these exemptions to prevent cancelation of flights in situations where a pilot flightcrew member's pilot certificate or medical certificate is valid but not physically available. With the emergence of Airman Online Services, the FAA has added as a condition of these exemptions that the relief is intended for situations where the pilots may not have Internet access or other means to expeditiously receive a document from the FAA under § 61.29(e).

Under the terms of the exemption, a part 119 certificate holder may provide its pilots with a temporary 72-hour verification document when an airman certificate or medical certificate is lost, damaged, or destroyed. This method is known as the Air Carrier Certificate Verification Plan.⁷⁵ Issuance of a verification document to a pilot flightcrew member is based on information contained in the certificate holder's approved record system. The certificate holder's POI must approve the procedure.

Additionally, the FAA places certain conditions and limitations on a certificate holder as part of the exemption including, but not limited to: requiring the pilot to carry a copy of the exemption onboard when the relief is utilized, ensuring an alternate method for proper

⁷⁴ Currently, there are 10 active exemptions granted for relief of § 61.3(a) and (c) to part 119 certificate holders. These exemptions include air carrier associations such as Regional Airline Association (RAA) (Exemption No. 5560, as amended) and Airlines for America (A4A) (Exemption No. 5487, as amended). RAA currently lists 26 air carrier members (<http://www.raa.org>) while A4A represents most mainline part 121 air carriers including Alaska Airlines, American Airlines, Hawaiian Airlines, JetBlue Airways, Southwest Airlines, United Airlines, UPS, and Federal Express (<http://www.airlines.org>). By including the participating members of RAA and A4A, there may be more than 65 part 119 certificate holders eligible to exercise the privileges of these exemptions for relief from § 61.3(a) and (c)

⁷⁵ 8900.1 Volume 5, Chapter 1, Section 7, paragraph 5-153 (C)

identification of the pilot, requiring the pilot to comply with § 61.29(e) and obtain a replacement certificate after the 72-hour period has elapsed if the original certificate remains unavailable, and limiting the relief in the exemption to operations conducted entirely within the District of Columbia and the 48 contiguous States of the United States.

Since the exemption process is not the appropriate method to provide continuing relief sought by these certificate holders, the FAA is proposing to amend §§ 121.383(c) and 135.95 to allow part 119 certificate holders conducting operations under part 121 or 135 to provide their pilot flightcrew members a temporary verification document (valid for 72 hours) without the need of an FAA exemption. The FAA is also proposing to amend § 61.3(a) to permit the documents provided by certificate holders to be carried as an airman certificate or medical certificate, as appropriate. As amended, § 61.3(a) would permit flightcrew members to carry documents provided by a certificate holder only on flights conducted for the part 119 certificate holder including ferry flights to reposition aircraft. If the pilot flightcrew member's pilot or medical certificate remains unavailable after 72 hours, the pilot flightcrew member would be required to comply with the requirements of § 61.29 and request a 60-day temporary confirmation document from the Airman Certification Branch or the Aeromedical Certification Branch until a replacement certificate is issued and in the possession of that airman.

A temporary verification document issued by the certificate holder would remain a short-term solution for a period not to exceed 72 hours. Placing this 72-hour time limitation on the verification document issued by the certificate holder would ensure that the airman obtains an official document from the Airman Certification Branch or Aeromedical Certification Branch under § 61.29(e) when a document remains unavailable after 72 hours.

Consistent with the conditions and limitations set forth in the exemptions, the FAA is proposing that a certificate holder would be required to obtain approval from the Principal Operations Inspector to exercise this privilege. The FAA intends to establish a process within the web-based Operations Safety System (WebOPSS)⁷⁶ program to facilitate approval of the Air Carrier Certificate Verification Plan. Under this proposed process, the Principal Operations Inspector would provide the authorization to issue a pilot certificate or medical certificate verification document through WebOPSS, which would permit the FAA to approve and oversee the authorization through established operations specifications procedures.⁷⁷ The FAA believes that public safety and interest would be preserved with the approval and oversight of the certificate holder's Principal Operations Inspector.

When these exemptions were first granted in 1992, access to the Internet was limited or unavailable and obtaining a temporary document quickly from the FAA was difficult. This fact has changed with today's information technology revolution. The FAA believes that the current proliferation of personal electronic devices with 24/7 Internet information and email access will likely keep the use of this new provision at a minimum. If this rule is finalized as proposed, the FAA will provide updated FAA Order 8900.1 guidance regarding how a certificate holder may obtain authority to provide its pilots a temporary 72-hour certificate verification document. The FAA would continue to provide relief through exemptions until a final rule is published and the

⁷⁶ WebOPSS is a web-based program for issuance of operations specifications (OpSpecs) to 14 CFR part 119, 133, and 145 certificate holders, and part 129 operators.

⁷⁷ This would be in lieu of utilizing the FAA Airmen Online Services Web site that can provide temporary authority in the form of a facsimile (fax) or email. This also would apply to the temporary authority for the medical certificate provided by fax from the Aeromedical Branch.

certificate holder has obtained authority under the regulation from its Principal Operations Inspector.

The current exemptions issued to part 119 certificate holders conducting part 121 operations also provide exemption from § 63.3(a) to allow certificate holders to issue temporary verification documents to flight engineer flightcrew members who do not have their airman certificates or medical certificates in their personal possession for a particular flight.

Accordingly, the FAA is proposing to amend § 63.3(a) to permit the documents provided by certificate holders to be carried as an airman certificate or medical certificate, as appropriate. As amended, § 63.3(a) would permit flightcrew members to carry documents provided by a certificate holder only on flights conducted for the part 119 certificate holder including ferry flights to reposition aircraft. If the flight engineer flightcrew member's airman or medical certificate remains unavailable after 72 hours, the flight engineer flightcrew member would be required to comply with the requirements of § 63.16 and request a 60-day temporary confirmation document from the Airman Certification Branch or the Aeromedical Certification Branch until a replacement certificate is issued and in the possession of that airman.

The FAA notes that, as proposed, this relief for pilots and flight engineers is available only for flights conducted entirely within the United States.⁷⁸ Article 29 of the Convention on International Civil Aviation requires that every aircraft engaged in international navigation shall carry "the appropriate licenses for each member of the crew." Temporary verification documents provided by the certificate holder from its training records would not meet the requirements of the Convention.

⁷⁸ The exemptions limited the relief to those flights conducted entirely within the District of Columbia and the 48 contiguous States. As proposed, the relief is expanded to any flight conducted entirely within the United States.

G. Military Competence for Flight Instructors

Issuance of a flight instructor certificate

The requirements for the issuance of a flight instructor certificate are set forth in subpart H of part 61. These requirements include receiving training appropriate to the flight instructor rating sought, successful completion of a knowledge test, and demonstration of instructional proficiency during a practical test with an examiner. In the 2009 final rule, the FAA promulgated § 61.73(g) (74 FR 42555), which for the first time allowed a current or former military instructor or military examiner to obtain an FAA flight instructor certificate based on experience obtained in the military (i.e., military competence) rather than meeting the requirements in subpart H.

Section 61.73(g) specifies that a current or former military instructor or examiner may apply for and be issued an initial flight instructor certificate with appropriate ratings or add a rating to an existing flight instructor certificate if he or she meets the following requirements:⁷⁹

- Hold at least a commercial pilot certificate with category and class ratings appropriate to the flight instructor certificate sought;
- Hold an instrument rating (or have instrument privileges) on his or her pilot certificate appropriate to the instructor rating sought;
- For applicants that currently do not hold a flight instructor certificate, pass a knowledge test on the aeronautical knowledge areas listed under § 61.185(a);⁸⁰

⁷⁹ These requirements are paraphrased from the existing regulatory text found in § 61.73(g).

⁸⁰ The FAA requires applicants to satisfy this requirement by passing the Military Competence Instructor (MCI) knowledge test. This test is composed of 125 questions and requires the applicant to demonstrate knowledge in the areas of fundamentals of instructing, 14 CFR parts 61 and 91, attitude flying, and basic flight instruments.

- Present a record that shows the person is or was qualified as a U.S. Armed Forces military instructor pilot or pilot examiner appropriate for the flight instructor rating sought;
- Present a record that shows the person completed a U.S. Armed Forces instructor pilot or pilot examiner training course and received an aircraft rating qualification as a military instructor pilot or pilot examiner that is appropriate to the flight instructor rating sought; and
- Present a record that shows that person passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check in an aircraft as a military instructor pilot or pilot examiner that is appropriate to the flight instructor rating sought.

The 2009 final rule did not impose any time restrictions for the qualifying military events described by § 61.73(g).⁸¹ The absence of time restrictions allows applicants to use military instructor experience obtained any time prior to the date of application as a basis for the issuance of an initial flight instructor certificate.

Renewal and reinstatement of a flight instructor certificate

The holder of a flight instructor certificate must renew that certificate every 24 calendar months to continue to exercise instructor privileges. Section 61.197 describes the methods by

⁸¹ For decades, FAA regulations have allowed military pilots to apply for FAA pilot certificates and ratings based on military competency. Prior to 2009, those military pilots who applied for an FAA pilot certificate more than 12 months after they were on active flying status were required to take and pass a practical test. Those military pilots who were on active flying status within 12 months of the date of application for an FAA pilot certificate were not required to take and pass a practical test. The 2009 final rule removed the time restriction from § 61.73 and required that military pilots take and pass only a knowledge test to obtain an FAA certificate, regardless of the time that had elapsed since they were on active flying status. The FAA introduced the military instructor competence provision in 2009 without any time restriction.

which a flight instructor may accomplish that renewal, including: (1) completing a flight instructor refresher course (FIRC); (2) providing a record showing that the instructor served as a check pilot in an air carrier operation; (3) providing a record showing within 24 calendar months 80% of the flight instructor's students have passed a practical test on the first attempt (five or more recommendations); (4) completing a practical test for additional flight instructor rating; or (5) providing a record showing that within the preceding 12 months from the month of application the flight instructor passed an official U.S. Armed Forces instructor pilot proficiency check. 14 CFR 61.197(a). The 2009 final rule that established military instructor competency added military instructor pilot proficiency checks to the list of renewal options for a flight instructor certificate.

If a flight instructor fails to accomplish one of the renewal requirements, the flight instructor certificate expires, and the instructor may no longer exercise the privileges of that certificate until it is reinstated. To reinstate an expired flight instructor certificate, a person must pass a practical test for a previously held instructor rating or a new rating.⁸² 14 CFR 61.199. Special Federal Aviation Regulation (SFAR) 100-2 provides the only other avenue by which to reestablish the privileges of an expired flight instructor certificate. Under that provision, a person who served in a U.S. military or civilian capacity outside the United States in support of a U.S. Armed Forces' operation is eligible for renewal of an expired flight instructor certificate, provided the instructor completes one of the renewal requirements in § 61.197 within six calendar months of returning to the United States.

⁸² The minimum tasks that must be demonstrated during a practical test are found in the Flight Instructor Practical Test Standards, as appropriate for the category being tested.

The proposed rule

Since the final rule was published in 2009, the FAA has received numerous comments from military instructors regarding renewal and reinstatement of their flight instructor certificates. For example, some military instructors – who had obtained their initial flight instructor certificate by completing the requirements in subpart H rather than through military competence – wanted to use § 61.73(g) to reinstate their expired flight instructor certificates. Unless the expired flight instructor certificate can be renewed in accordance with SFAR 100-2, the express language in § 61.199 requires the holder of an expired flight instructor certificate to reinstate that certificate by completing a practical test. Some military instructors noted that it seemed inequitable to allow military instructors who had not instructed for many years to obtain an initial flight instructor certificate without being required to demonstrate proficiency while at the same time requiring an active military flight instructor (who had obtained that certificate by meeting the requirements of subpart H) to pass a practical test to reinstate his or her expired flight instructor certificate.

As another example, some military instructors have sought to renew their certificates based on the addition of a military instructor rating obtained outside the 12-month window set forth in § 61.197(a). The FAA has stated through policy that, under § 61.73(g), a military instructor is eligible to add a new rating obtained in the military to a non-expired flight instructor certificate; however, the flight instructor certificate retains the existing expiration date unless the applicant added the rating within the 12-month period preceding the date of the application for renewal. As such, a person who holds a non-expired flight instructor certificate and obtained a new rating through a military proficiency check conducted outside of the 12-calendar month

period preceding the month of application for renewal retains the original expiration date on the certificate rather than obtaining a new certificate valid for 24 months. Many military instructors commented that the addition of a rating during any time prior to expiration of a flight instructor certificate should result in the applicant receiving a certificate that is valid for an additional 24 calendar months.

Based on these concerns, the FAA is proposing some changes to §§ 61.197 and 61.199 to accommodate renewal and reinstatement of flight instructor certificates by military instructors and examiners. The FAA is proposing to expand the 12-calendar-month timeframe noted in § 61.197(a)(2)(iv) to 24 calendar months. This would allow a military instructor who has passed a U.S. Armed Forces military instructor pilot proficiency check within the 24 calendar months preceding the month of application to be eligible to renew his or her certificate based on that proficiency check. Expanding this timeframe would be consistent with the requirements for other methods of renewal found in §§ 61.197(a)(2)(i) and 61.197(a)(2)(ii). The FAA believes that there would be no reduction of safety based on this proposal as these instructors will have demonstrated knowledge and skill during the same timeframe as is recognized for other methods of renewal. Consistent with current regulations, those instructors who apply to renew their certificates based on a military instructor proficiency check completed more than 3 months from the date of expiration of their current flight instructor certificate would receive a certificate with an expiration date 24 months from the date that the instructor submits his or her application for renewal. If the flight instructor applies for renewal within 3 months of the expiration date of the current instructor certificate, then the new expiration date would be 24 months from the current date of expiration.

The FAA is also proposing to clarify in § 61.197(a)(2)(iv) that a flight instructor would be able to renew his or her certificate by providing a record demonstrating that, within the previous 24 calendar months, the instructor passed a military instructor pilot proficiency check for a rating that the instructor already holds or for a new rating. Consistent with current practice, an eligible military instructor that applies for renewal under this provision would receive a flight instructor certificate that reflects a date 24 calendar months from the month that application for renewal is made to the FAA.

The FAA is also proposing to revise § 61.199(a) to permit a military instructor to reinstate his or her expired flight instructor certificate by providing a record showing that, within the previous six calendar months, the instructor passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check for an additional military rating. The FAA has accepted a flight instructor or examiner proficiency check conducted by the military to be equivalent to an FAA practical test for the purposes of issuing initial flight instructor certificates, adding ratings to existing flight instructor certificates, and for renewing flight instructor certificates. Allowing a flight instructor to reinstate his or her expired flight instructor certificate based on a military instructor proficiency check for an additional rating would be an extension of this precedent. Consistent with the existing requirements for reinstatement, a military instructor seeking to reinstate his or her certificate under the proposed provision would not be required to take an additional knowledge test.

The expiration date of the reinstated flight instructor certificate would be 24 calendar months from the date of the proficiency check (as opposed to the date of the application). In addition, the FAA would require the applicant to apply for reinstatement within 6 calendar

months of the proficiency check. The FAA believes that this would provide the applicant adequate time to schedule an appointment with either an FAA Aviation Safety Inspector or designee authorized to issue a flight instructor certificate based on military competence. Allowing the applicant 6 calendar months to apply for the reinstatement following the proficiency check is consistent with the 6-calendar-month allowance described in SFAR 100-2.⁸³ The 6-calendar-month requirement also ensures that FAA resources are being expended on a certificate that will at least be valid for 18 calendar months following the date of issuance.

The FAA is also proposing to add a temporary provision to § 61.199 (new paragraph (c)) that would allow military instructors who obtained their initial flight instructor certificate under subpart H to reinstate that instructor certificate based on military competence rather than by completing a practical test. Currently, those military instructors with an expired instructor certificate (that was obtained under subpart H) may only reinstate that certificate through an additional practical test. This situation is in contrast to military instructors that have never held a flight instructor certificate issued under subpart H who have the ability to receive an initial instructor certificate based on their military activity, even though their military activity may have been prior to the military activity of the individual that holds an expired instructor certificate. As noted previously, the FAA has received commentary that this situation, resulting from the current regulations, is inequitable.

⁸³ The FAA notes that SFAR 100-2 addresses applicants who are unable to make a timely application due to being assigned outside the United States in support of U.S. Armed Forces operations. Under that provision, an applicant may meet any of the renewal requirements listed in § 61.197(a) to reinstate an instructor certificate. The proposed rule, however, would only permit reinstatement based on successful completion of a military proficiency check to add a military instructor rating but would apply to an applicant without regard to the location of their assigned duty.

This proposed temporary provision would provide a reinstatement method for military instructors and examiners who allowed their FAA instructor certificates to expire before the regulations permitted them to add a rating based on military instructor competence. This temporary provision in § 61.199(c) would allow for a military instructor or examiner that meets the following requirements to obtain a reinstated flight instructor certificate. As proposed, a military instructor or examiner who obtained his or her FAA flight instructor certificate before October 20, 2009 (the effective date of the current regulations that allow for the issuance of a flight instructor certificate based on military competence), would be required to: (1) provide a record demonstrating that, since the initial flight instructor certificate was issued, the person passed a U.S. Armed Forces instructor or pilot examiner proficiency check for an additional military rating; and (2) pass the MCI knowledge test within 24 calendar months preceding the date of application for reinstatement. The FAA believes that requiring the applicant to pass the knowledge test ensures that the person has demonstrated recent knowledge of the areas found in the MCI test and is consistent with the requirements for a person seeking an initial flight instructor certificate based on military competence.

The temporary provision in § 61.199(c), as proposed, would remain in effect for one year to provide a military instructor or examiner with an expired FAA instructor certificate issued under subpart H enough time to reinstate their certificate based on military competence. The FAA believes that one year is a sufficient time frame to allow those individuals who would be affected by the provision to apply for a reinstated instructor certificate.

H. Use of Aircraft Certificated in the Restricted Category for Pilot Flight Training and Checking

Training and/or checking in restricted category aircraft

Basic certification requirements under 14 CFR part 21 state that an applicant is entitled to a type certificate for an aircraft in the restricted category for special purpose operations if the applicant shows that no feature or characteristic of the aircraft makes it unsafe when it is operated under the limitations prescribed for its intended use.⁸⁴ Additionally, the aircraft: (1) must meet the airworthiness requirements of an aircraft category except those requirements that the FAA finds inappropriate for the special purpose for which the aircraft is to be used; or (2) is of a type that has been manufactured in accordance with the requirements of and accepted for use by, an Armed Force of the United States and has been later modified for a special purpose. 14 CFR 21.25(a). Special purpose operations⁸⁵ for restricted category aircraft are outlined in 14 CFR 21.25(b) and include, agricultural operations, forest and wildlife conservation; aerial surveying (photography, mapping, and oil and mineral exploration); patrolling (e.g., pipelines, power lines, and canals); weather control (e.g., cloud seeding); aerial advertising (skywriting, banner towing, airborne signs and public address systems); and any other operation specified by the FAA.⁸⁶

The special purpose operation for which the FAA certifies a restricted category aircraft is set forth in the “Certification Basis” section of the Type Certificate Data Sheet. This section

⁸⁴ The applicant must also show that the aircraft complies with the applicable noise requirements under 14 CFR part 36.

⁸⁵ Already approved other special purpose operations under § 21.25(b)(7) are listed and further explained in FAA Order 8110.56 (as amended), Chapter 5.

⁸⁶ Criteria for the approval of “any other operation specified by the FAA” is outlined in FAA Order 8130.2 (as amended), paragraph 408h.

will list the applicable special purpose operation(s) as described in § 21.25(b) and provides the only operations for which the restricted category aircraft can be utilized.

Section 91.313 places express limitations on the operations that may be conducted in a restricted category aircraft. The FAA first proposed regulations establishing the operating limitations of aircraft certificated in the restricted category in an NPRM on January 18, 1964. 29 FR 477. In the preamble, the FAA explained that it was placing limitations on the use of restricted category aircraft because the airworthiness certification standards for these aircraft are not designed to provide the same level of safety that is required for aircraft certificated in the standard category. The final rule was published on February 18, 1965. 30 FR 2531.

Section 91.39, later recodified as § 91.313,⁸⁷ provided “no person may operate a restricted category civil aircraft for any purpose other than the special purpose for which it is certificated” or “in an operation other than one necessary to accomplish the work activity directly associated with that special purpose.” In 1968, the FAA revised § 91.39 to permit restricted category aircraft to be used to train flightcrew members in the special purpose operation for which the aircraft was certificated. 33 FR 12826 (September 11, 1968).

The FAA recently determined that the operating limitations set forth in § 91.313 restrict operators from conducting flights necessary for their PICs to obtain the type rating designations required by § 61.31(a). Practical tests for the addition of a type rating designation to a pilot certificate, training in preparation for such practical tests, or other flights necessary for the conduct of such practical tests (such as observations required for designated pilot examiner

⁸⁷ The FAA recodified part 91 in 1989. 54 FR 34308 (August 18, 1989). No further amendments have been made since that time.

designation and surveillance) are outside the scope of the special purpose operation(s) for which these restricted category aircraft are certificated and not allowed under § 91.313.

The FAA recognizes that this determination creates a regulatory barrier for operators seeking to conduct flights to meet the type rating requirements of § 61.31 when a standard category aircraft in the same category, class, and type is not reasonably available to the operator. Several models of surplus military aircraft have entered service as civil aircraft certificated in the restricted category. Additionally, civil aircraft previously certificated in the standard or transport category have been modified to take advantage of new technologies or modified to add equipment designed to specifically perform a mission covered by the special purpose operations outlined in § 21.25(b). The FAA has certificated these aircraft in the restricted category under new type certificates. There are multiple examples of aircraft certificated in the restricted category for which there is no equivalent standard category aircraft including the civil model CH-47D, the Lockheed P-2 Neptune (P2V), and the Air Tractor AT-802A.

After the FAA informed operators that flights pertaining to pilot certification were not expressly permitted by § 91.313, several operators applied for an exemption to this section. These petitions for exemption sought relief to conduct pilot training for certification, practical tests (for type rating designations), and PIC proficiency checks required by § 61.58 in aircraft certificated in the restricted category.

Petitions for Exemption

On January 13, 2015, Billings Flying Service (Billings), a part 119 certificate holder authorized to conduct operations under parts 133, 135, 137, and 91 petitioned the FAA for an

exemption from § 91.313(a)⁸⁸ to allow proficiency training, practical tests, or other flights necessary for its pilot employees to obtain a type rating designation in the S-61A and CH-47D rotorcraft.⁸⁹ Billings explained that it supports the United States government in fire suppression operations which requires training and check flights for its pilots. Pilots operating these aircraft for Billings are subject to the type rating requirements and proficiency check requirements prescribed in §§ 61.31 and 61.58.

In its petition, Billings stated that it has conducted training and proficiency checks for many years, and that such operations are safe, present no additional risk to the public, and are in the public interest. Billings further noted that it would perform no additional maneuvers or operations, above what it had conducted in the past, and that the training would be in the same location for training previously used by Billings. The petitioner asserted that conducting these same operations, including those that would be under the oversight of an FAA Designated Pilot Examiner, Aviation Safety Inspector, or Pilot Proficiency Examiner, present no additional risk and are in the public interest.

The relief granted in the exemption allowed Billings to operate a restricted category aircraft for a practical test necessary for its pilots to obtain a type rating designation as required by § 61.31. In addition, the exemption allowed Billings to train pilots in preparation for these practical tests. The FAA limited this relief to those pilots employed by Billings who will participate in a special purpose operation for which the listed aircraft are certificated. The

⁸⁸ Billings also requested relief from § 91.313(b) which allows an operator to consider flightcrew member training for the special purpose operation for which the aircraft is certificated to be an operation for that special purpose. The FAA determined that since Billings will not be conducting training directly related to the special purpose under this exemption but rather will be conducting training and testing necessary for certification, relief from § 91.313(b) was not required.

⁸⁹ Docket No. FAA-2015-0104. Exemption No. 11180.

exemption also granted relief for any flights necessary to designate a designated pilot examiner in the aircraft types in order to conduct these practical tests.

The FAA noted that, although § 91.313 does not allow restricted category aircraft to be used for training for certification and the practical test for type ratings, this restriction does not extend to proficiency checks accomplished by those pilots that already hold the requisite type rating and whose duties are to perform a special purpose operation authorized by § 91.313(a). These flights, such as flights needed to satisfy the PIC proficiency checks required by § 61.58 (and associated pilot proficiency examiner observations), are considered necessary to accomplish the work activity directly associated with the aircraft's special purpose.

In addition to providing relief from § 91.313(a), the FAA found that an exemption from § 91.313(c) was required for Billings to conduct the operations described in the petition. Section 91.313(c) prohibits a person from operating a restricted category civil aircraft carrying persons or property for compensation or hire. An operation that involves the carriage of persons or material necessary to accomplish the special purpose and an operation for the purpose of providing flight crewmember training in the special purpose operation are not considered to be the carriage of persons or property for compensation or hire.

A recent legal interpretation by the FAA recognizes an instructor who is being paid to provide flight training in an aircraft is operating the aircraft for compensation or hire regardless of whether he or she is acting as pilot in command.⁹⁰ The same principle applies to designated pilot examiners providing practical tests. The FAA did not intend to restrict Billings from providing compensation to those instructors providing training or examiners conducting practical

⁹⁰ Legal Interpretation to Gregory Morris (October 7, 2014) (pertaining to limited category aircraft).

tests in the aircraft covered under the exemption. However, the exemption limited Billings to conducting such flights for the purpose of training pilots who will be conducting special purpose operations on behalf of the operator, or, in the case of a designated pilot examiner, will be conducting practical tests for the operator's pilots.

Subsequent to the grant of relief for Billings, the FAA received and granted several other petitions for exemption from § 91.313(a) and (c).⁹¹

Proposed Rule Change

The FAA believes that, under certain conditions, it would be appropriate to permit owners/operators of aircraft certificated in the restricted category to operate those aircraft for the purpose of providing pilot training and testing that leads to a type rating designation required by § 61.31(a) (and an ATP certificate⁹² obtained concurrently with a type rating). This training and testing would be limited to pilots employed by an operator to perform the special purpose operation identified on the restricted category aircraft's Type Certificate Data Sheet. The FAA is also proposing to allow flights to be conducted in restricted category aircraft for the purpose of designating examiners and training center evaluators and qualifying FAA inspectors in the aircraft type and conducting oversight and observation of designated examiners and training center evaluators. As proposed in § 91.313(h), operators of restricted category aircraft would be permitted to conduct these operations by obtaining a letter of deviation authority (LODA) from

⁹¹ Petitioners include, but are not limited to, AAR Airlift Group, Inc. (Docket No. FAA-2011-1270), Neptune Aviation Services (Docket No. FAA-2015-0073), Aero-Flite, Inc. (Docket No. FAA 2015-0543), Airborne Support Inc. (Docket No. FAA-2015-0110), Construction Helicopters, Inc. DBA CHI Aviation (Docket No. FAA-2015-0127), Sikorsky Aircraft Corporation (Docket No. FAA-2013-0476), and Withrotor Aviation (Docket No. FAA-2015-0123).

⁹² The applicant would need to meet all applicable requirements of part 61 and successfully pass the practical test in accordance with the ATP Practical Test Standards for the applicable category and class, as appropriate.

the existing limitations in § 91.313. This process would be similar to the provision currently found in § 91.319(h) for aircraft certificated in the experimental category.⁹³

The proposed § 91.313(h) would allow operators of restricted category aircraft to obtain a LODA for the purpose of conducting pilot training and testing that leads to a type rating designation required by § 61.31(a). As proposed, the LODA would permit operators to train and test only pilots employed by the operator who hold at least a commercial pilot certificate with the appropriate category and class ratings for the aircraft type. The FAA believes that requiring pilots to hold category and class ratings prior to the type rating practical test is appropriate because it would resolve the current regulatory obstacle faced by operators who need to provide their pilots with the proper ratings to perform special purpose operations while ensuring that historical limitations on the use of restricted category aircraft remain in place. As noted, the FAA has long acknowledged that restricted category aircraft “may not meet the airworthiness standards of standard category aircraft.” Because of the special nature of the intended usage of these aircraft, the airworthiness certification standards for them are not designed to provide the same level of safety that is required for aircraft certificated in the standard category and the operating limitations set forth in § 91.313 are designed to compensate for this and provide the necessary level of safety for special purpose operations. 30 FR 2531 (February 18, 1965).

Because of these airworthiness considerations, the FAA finds it necessary to limit the additional restricted category operations to those that are described in this proposal. The FAA finds that the proposal would permit the flights that can only be conducted in a restricted category aircraft. Other flights, such as obtaining a commercial pilot certificate or adding a

⁹³ Section 91.319(h) allows the FAA to issue deviation authority to operators providing flight training for compensation or hire in experimental aircraft.

category and/or class rating, can be conducted in an aircraft with other airworthiness certificate categories (e.g., standard category). The FAA finds that operations which can be accomplished in aircraft that have an airworthiness certificate outside of the restricted category should not be permitted by § 91.313.

In addition, proposed § 91.313(h) would permit the FAA to provide deviation authority to conduct operations in restricted category aircraft that are necessary to designate examiners and training center evaluators and qualify aviation safety inspectors in the aircraft type and provide continuing oversight and observation of designees and training center evaluators. These flights would enable the FAA to conduct the appropriate practical tests for operators and ensure that the FAA fulfills its obligations to ensure that designees and FAA inspectors are performing their duties appropriately.

As proposed in § 91.313(h)(4), an operator would be required to submit a request for deviation authority in a form and manner acceptable to the Administrator at least 60 days before the intended operations would be conducted. Although the FAA will provide additional guidance on the process for obtaining a LODA, the FAA anticipates that – as with LODAs for experimental aircraft – an operator would submit a request for deviation authority to the Flight Standards District Office having jurisdiction over the location where the requested training would take place.

The application for a LODA under proposed § 91.313(h) would include:

- A letter identifying the name and address of the applicant which includes the name and contact information of the person responsible for the operation, and details of the type of training and/or checking to be conducted;

- A description of each aircraft, FFS, FTD, or ATD used in any associated training (if applicable). This information would include the specific aircraft make(s), and model(s), and type (if applicable) by N-number, to be utilized;
- An aircraft configuration analysis including, but not limited to, flight deck, flight manual, operating limitations, required placards, and procedures.
- The qualifications and current employment status of the applicant for which the training and/or checking is needed.

If an operator obtains a LODA, the training and testing for a type rating would be conducted consistent with existing requirements in part 61. Specifically, the flight training must be conducted by an appropriately rated flight instructor in accordance with the requirements set forth for type ratings in §§ 61.63(d) or 61.157(b). Additionally, the pilot would be required to complete the practical test consistent with the standards outlined in the Practical Test Standards with a designee or FAA inspector who holds the appropriate authority. For this reason, the operator would be required to demonstrate during the application process that, as configured, the restricted category aircraft is capable of performing all required procedures and maneuvers necessary to meet the requirements of the applicable aircraft type rating practical test standards.

If the operator is granted deviation authority, the operator would be permitted to provide pilot flight training and/or testing in their restricted category aircraft consistent with the authority provided in the LODA.⁹⁴ As such, the LODA issued via WebOPSS would outline the specific

⁹⁴ If the FAA has sufficient designees rated in a particular aircraft type, it may not be necessary to issue authority in an operator's LODA to conduct flights necessary to accomplish designee qualification, oversight and observation.

training and testing functions that are authorized.⁹⁵ The FAA notes that LODAs are issued to specific operators not to individual aircraft. If an operator leases a restricted category aircraft to another operator, then both operators must hold a LODA to conduct flight training and testing for pilots employed to perform a special purpose operation. Additionally, an operator would be required to demonstrate that the executed lease agreement meets the requirements pertaining to operational control under part 91.

This proposed provision is not intended to allow operators to establish training schools utilizing restricted category aircraft for the purpose of issuing type ratings. Operators would only be granted deviation authority to conduct this training and testing for pilots that are employed by the operator and only when a type rating is required to complete the appropriate special purpose operation for which the aircraft was certificated and the operator is actively engaged in performing.

In addition to establishing a LODA process under proposed paragraph (h), the FAA is also proposing to revise § 91.313(b) to make clear that PIC proficiency checks and recent flight experience in a restricted category aircraft are permitted under § 91.313(a) when pilots hold the appropriate category, class, and type ratings and are employed by the operator to perform a special purpose operation. Under the proposal, properly rated pilots employed by the operators would be permitted to accomplish § 61.58 proficiency checks and recent flight experience requirements set forth in § 61.57. Additionally, the FAA is proposing to add relocation flights for maintenance to the list of operations considered necessary to accomplish the work activity directly associated with the special purpose operation. The FAA notes that other types of flight

⁹⁵ WebOPSS is a web-based program for issuance of FAA authorizing documents to certificate holders and miscellaneous operators.

events not expressly allowed by the regulation would not be permitted and would require an exemption from the regulation.⁹⁶

The FAA has also proposed a change to § 91.313(c) to ensure that instructors providing flight training and designees conducting practical tests under a LODA may accept compensation for these operations. Likewise, the FAA is proposing to revise § 91.313(d) to permit persons to be carried on restricted category aircraft if necessary to accomplish a flight authorized by LODA under paragraph (h).

Currently, if an operator desires to conduct any operation outside of the special purpose operation(s) for which the aircraft was certificated, the operator is required to submit a petition for exemption. Requirements for how to submit a petition for exemption and what information must be included in the submission are outlined in 14 CFR 11.63 and 11.81 respectively. Additionally, in accordance with § 11.63, the operator is required to submit the petition for exemption 120 days prior to the need for the exemption to take effect. If approved, the petition for exemption may have conditions and limitations that will require ongoing interaction between the operator and the FAA. If this rule is finalized as proposed, the requirement to submit a request for a LODA locally to the Flight Standards District Office will relieve the operator of the burden of petitioning the FAA for exemption. The LODA process would enable an operator to obtain approval at the local Flight Standards District Office and would reduce the time requirements associated with filing a petition for exemption.

⁹⁶ Operators would still be permitted to conduct operations necessary to accomplish the work activity directly associated with the special purpose operation. In the 1965 final rule, the FAA provided examples of such operations which included allowing a farmer to conduct a flight for the purpose of showing which fields should be dusted or transportation of an insurance agent, surveyor, or inspector to the site of a special purpose operation. The FAA would also consider a flight conducted to relocate an aircraft to an area of a special purpose operation to be an operation necessary to accomplish the special purpose operation.

I. Single Pilot Operations of Former Military Airplanes and Other Airplanes with Special Airworthiness Certificates

Section 91.531(a) prohibits a person from operating certain airplanes without a pilot who is designated as SIC. This restriction applies to large airplanes,⁹⁷ turbojet-powered multiengine airplanes for which two pilots are required under the type certification requirements for that airplane, and certain commuter category airplanes. The Administrator may issue LOAs for the operation of an airplane without an SIC “if that airplane is designed for and type certificated with only one pilot station.” 14 CFR 91.531(b).

Certain former military aircraft and some experimental aircraft were designed to be flown by one pilot. Notwithstanding this fact, these airplanes are currently required to have an SIC in accordance with § 91.531(a) because they qualify as large airplanes. Furthermore, because these airplanes are not type certificated, they are not eligible for an LOA under § 91.531(b). Under the express language of the regulation, to obtain an LOA, the airplane must be both “designed for and type certificated with only one pilot station.”⁹⁸

On April 10, 2012, Experimental Aircraft Association, Warbirds of America, petitioned the FAA for an exemption from § 91.531 to permit the operation of large airplanes that possess

⁹⁷ Under 14 CFR 1.1, a large aircraft means an “aircraft of more than 12,500 pounds, maximum certificated takeoff weight.”

⁹⁸ Section 91.531 was originally promulgated as § 91.213 (37 FR 14758; July 25, 1972). In 1989, part 91 was reorganized and § 91.213 was recodified as § 91.531. In the preamble to the final rule establishing § 91.213, the FAA stated that “to accommodate those airplanes having only one pilot station, such as former military airplanes certificated for special operations, § 91.213 as adopted permits an airplane having only one pilot station to be operated under an authorization from the Administrator” (37 FR 14762). Despite the express language of the rule, the preamble to the final rule did not distinguish between type certificated and non-type certificated former military airplanes designed for one pilot operations. The FAA does not believe that the rule’s original intent was to preclude single pilot operations in former military aircraft that were designed for single pilot operations but which are not type-certificated. In addition, the FAA does not believe that single pilot operations should be precluded in some large experimental airplanes that are not type-certificated and that were not commonplace when § 91.213 was established.

special (experimental) airworthiness certificates that have been designed with only one pilot station, but which are not type-certificated, to be operated without a pilot who is designated as SIC.⁹⁹

On July 20, 2012, the FAA granted this exemption from § 91.531(a)(1) to allow members of the Experimental Aircraft Association, Warbirds of America, to operate certain large airplanes without an SIC. The FAA granted relief from § 91.531(a) for pilots operating: (1) the “trainer” versions of former military airplanes originally designed with one pilot station, but which were modified with a second pilot (instructor) station merely for the purpose of pilot training; and (2) former military aircraft that had a single pilot station and a required non-pilot flightcrew member station. In support of the relief provided in the exemption, the FAA stated that these airplanes were approved by the military to be flown with only one pilot. These airplanes are maintained, operated, and inspected in accordance with operating limitations issued by the FAA under § 91.319(i) that set forth specific conditions for their safe operation. In addition, the pilots are required to demonstrate proficiency through practical testing that includes oral and flight testing specific to the particular airplane operated.

The FAA is proposing to revise § 91.531(b) to allow certain large airplanes that are not type-certificated to be operated without a pilot who is designated as SIC, provided that those airplanes: (1) were originally designed with only one pilot station; or (2) were originally designed with more than one pilot station for purposes of flight training or for other purposes, but were operated by a branch of the United States Armed Forces or the armed forces of a

⁹⁹ www.regulations.gov; Docket No. FAA-2012-0406.

foreign contracting State to the Convention on International Civil Aviation with only one pilot.¹⁰⁰

The manufacturer's technical order for the airplane would indicate that the airplane was originally designed or modified to be flown with one pilot in accordance with § 91.9.

The proposed amendment to § 91.531 would also reorganize the section by placing all affirmative requirements in paragraph (a) and all exceptions thereto in paragraph (b). Related amendments to § 91.531, as proposed, would also eliminate inconsistencies, redundancies, and obsolete provisions, including the language currently found at paragraph (a)(2) and paragraph (d) of this section. By virtue of the airplane type certificate, large airplane, or commuter category crew requirements, the rule would now capture all circumstances when an SIC is required and the specific circumstances when an exception applies. The FAA notes that the affirmative requirement for an SIC on a multiengine turbojet aircraft at current paragraph (a)(2) is captured by the proposed amendment to § 91.531(a)(1) and therefore no longer needs to be listed separately.

The proposed amendment to § 91.531(a)(1) would clarify that the requirement for an SIC is determined by the minimum flightcrew requirements established in the operating limitations of the aircraft flight manual or the type certificate data sheet – regardless of whether the airplane is large or small. The existing SIC requirement for large airplanes, which would be reflected at § 91.531(a)(2) as proposed, remains necessary because some older airplanes do not contain minimum flightcrew requirements in the operating limitations of the aircraft flight manual or the

¹⁰⁰ For example, the F-15 has been designed with a single seat (models A and C). Other F-15s have been designed with a second seat behind the pilot for training (models B and D) or a seat behind the pilot for a weapons system officer that may have a second set of flight controls (model E). Despite the fact that there are models that are designed with a second pilot station, all F-15s are designed to be operated by a single pilot.

type certificate data sheet.¹⁰¹ The FAA continues to believe that large airplanes should be operated with an SIC unless the airplane has been type-certificated for single pilot operations. The FAA is proposing to revise the language in § 91.531(a)(2) to clarify that an SIC is required for large airplanes when the minimum flightcrew requirements are not included in the type certification of the airplane. The proposed revision would provide the necessary flexibility, in the event that the Aircraft Evaluation Group of the FAA determines a particular large airplane type could be flown safely without a SIC and adjusts the type certification requirements for that large airplane accordingly.¹⁰²

As proposed, the FAA would eliminate the need for pilots to obtain an LOA under § 91.531(b) to operate large airplanes designed for single pilot operation without an SIC. The FAA believes that an LOA is unnecessary due to pilot certification requirements and aircraft operating limitations in § 91.319(i).

For example, to fly a large former military or experimental airplane, the PIC must first hold either a type rating (if the airplane is type certificated) or an experimental aircraft authorization (if the airplane is not type certificated). These type ratings and authorizations are reflected on a person's pilot certificate after successful completion of the requisite practical test. In the case of former military and experimental airplanes designed for operation by a single pilot, a type rating or experimental aircraft authorization on a pilot certificate is evidence that the pilot has demonstrated to the FAA during a practical test or evaluation that he or she is competent to fly the airplane without an SIC.

¹⁰¹ For example, the Lockheed L-18 Loadstar, Douglas DC-3, and the Ford 5AT Tri-Motor are large airplanes for which the type certification does not specify a minimum crew complement.

¹⁰² The Embraer 505, SyberJet 30, and Cessna Citation 550 are examples of large airplanes that have been type certificated for operation without a SIC.

The FAA believes the current requirement to obtain an LOA for operation of these airplanes with a single pilot, in addition to the authorization on the pilot certificate, creates a redundancy without a demonstrable benefit. Therefore, rulemaking is appropriate to remove the redundant provision requiring an LOA for operational purposes and to allow these airplanes to be flown in single pilot operations. The FAA further notes that these airplanes must be flown in accordance with any applicable operating limitation, including any limitation issued pursuant to the provisions of §§ 91.319 and 91.9.

As proposed, pilots seeking to operate these airplanes (that are not type certificated) as a single pilot would still be required to obtain a temporary LOA from the FAA allowing the pilot to serve as PIC, if necessary, for completion of the practical test. Once the pilot completes the practical test successfully, the examiner would update the pilot certificate to reflect the authorization to operate these airplanes as a single pilot. Based on this proposal, the FAA believes the current requirement in § 91.531(b) to obtain a permanent LOA for operational purposes is no longer necessary with regard to large airplanes or turbojet-powered multiengine airplanes since the authorization is reflected on the pilot certificate. The FAA notes further that since the type certificate for commuter category airplanes referenced in current § 91.531(a)(3) permits single pilot operations, an LOA is not necessary.

J. Technical Correction and Nomenclature Change

While considering the regulatory changes proposed in this rulemaking, the FAA became aware of the need for a technical correction in appendix I to part 141, additional Aircraft category and/or class rating course. In paragraph (k), course for an airplane additional

multiengine class rating, subparagraph (2) discussing the requirements for the commercial pilot certificate, the FAA noted that two paragraphs are currently designated (iv):

(iv) One 2-hour cross country flight during nighttime conditions in a multiengine airplane and, a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(iv) Three hours of flight training in a multiengine airplane within 2 calendar months before the date of the practical test.

The FAA is proposing to correct this typographical error to renumber the paragraphs as (k)(2)(iv) and (k)(2)(v), respectively.

Further, while considering these regulatory changes, the FAA noted that the nomenclature regarding flight simulators has changed. The definition as found in § 1.1 references a “full flight simulator” whereas the regulations often use the older nomenclature “flight simulator.” Therefore, in the sections the FAA has determined need to be revised as part of the proposed rule, the FAA is also proposing to remove the words “flight simulator” wherever they appear and replace them with the words “full flight simulator.”

IV. Discussion of Proposed Effective Dates for Rule Provisions

The FAA recognizes that many of the provisions in this rule are relieving and others are voluntary. If this rule is finalized as proposed, the FAA will work to ensure that the amendments which would provide regulatory relief and flexibility become effective as soon as practicable, while ensuring that persons seeking to benefit from the relief, as well as the FAA, have adequate time to prepare for implementation of the changes that would be finalized. The following discussion summarizes the FAA’s proposal for when the various amendments included in this proposed rule would become effective. As explained, each proposed amendment would be

effective either 30, 60 or 180 days after publication of the final rule in the Federal Register, depending on the type and scale of implementation needed for persons to begin complying with the amended requirements.

Provisions Proposed to be Made Effective 30 Days after Date of Publication of a Final Rule

The FAA proposes that the following provisions be made effective 30 days after publication of any final rule associated with this NPRM. By making these provisions effective 30 days after the date of publication in the Federal Register, the FAA intends to ensure that regulatory relief for provisions that do not require specific Principal Operations Inspector approval, training, or significant changes to occur are implemented as quickly as possible. By making the proposed definitions in § 61.1 effective at this time, the FAA would ensure clarity of future regulatory provisions and alleviate potential confusion. The FAA proposes a 30-day effective date for the following provisions:

- All proposed definitions that would be added to § 61.1
- Proposed substantive and clarifying amendments to § 61.51(g)(4)-(5) regarding instructor requirement when using an FFS, FTD, or ATD to complete instrument recency experience
- Proposed amendments to §§ 61.57(c) and 135.245 regarding instrument experience requirements
- Proposed amendments to § 61.195(b)-(c) regarding flight instructors with instrument ratings only

- Proposed amendment to § 61.99 and addition of § 61.109(l) regarding credit for training obtained as a sport pilot
- Proposed amendment to § 141.5(d) regarding pilot school use of special curricula courses for renewal of certificate
- Proposed substantive amendment to § 91.531 regarding single pilot operations of former military airplanes and other airplanes with special airworthiness certificates and clarifying amendments
- Proposed typographical correction to appendix I to part 141

Provisions Proposed to be Made Effective 60 Days after Date of Publication of a Final Rule

The FAA proposes that the following provisions be made effective 60 days after publication of any final rule associated with this NPRM. By making these provisions effective 60 days after the date of publication in the Federal Register, the FAA intends to ensure that regulatory relief for provisions requiring some additional implementation time for the issuance and implementation of agency guidance, or for FAA Principal Operations Inspectors to take action, is available as soon as practicable. The FAA proposes a 60-day effective date for the following provisions:

- Proposed substantive amendments to § 61.129(a)(3)(ii) and appendix D to part 141 regarding the completion of commercial pilot training and testing in technically advanced airplanes and clarifying amendment to § 61.129(b)(3)(ii)
- Proposed amendments to §§ 61.412, 61.415(h) and 91.109(c) regarding sport pilot flight instructor training privilege

- Proposed amendments to §§ 61.197 and 61.199 regarding military competence for Flight Instructors

Provisions Proposed to be Made Effective 180 Days after Date of Publication of a Final Rule

The FAA proposes that the following provisions be made effective 180 days after publication of any final rule associated with this NPRM. By making these provisions effective 180 days after the date of publication in the Federal Register, the FAA is acknowledging that these provisions are more complex to implement and will necessitate more extensive action by FAA Principal Operations Inspectors. These provisions affect part 119 certificate holders conducting operations under parts 91, 121 and 135 and will take more coordination and review on the part of both certificate holders and the FAA. This will include the creation and issuance of an authorization by the FAA (i.e. an Operations Specifications paragraph that would be issued to the carrier) describing the criteria and actions required for the allowance under the rule. The FAA proposes a 180-day effective date for the following provisions:

- Proposed amendments to §§ 61.39, 61.51(e)-(f), 61.159(a) and (c), 61.161, and 135.99(c) regarding logging flight time as a second in command in part 135 operations
- Proposed amendments to §§ 61.3(a), 63.3, 63.16, 121.383(c) and 135.95 regarding temporary validation of flightcrew members' certificates
- Proposed amendments to § 91.313 regarding use of aircraft certificated in the restricted category for pilot flight training and checking.

V. Advisory Circulars and other Guidance Materials

To further implement this notice of proposed rulemaking, the FAA is proposing to revise or create the following Advisory Circulars and FAA Orders.

FAA Order 8900.1, Flight Standards Information Management System, Vol. 11, Chapter 10, Basic and Advanced Aviation Training Device, Sec. 1, Approval and Authorized Use under 14 CFR Parts 61 and 141 guidance concerning ATD's would also be revised.

AC 135-PDP: This document would be a newly drafted AC (Part 135 SIC Professional Development Program) that would provide part 135 operators guidance on receiving FAA approval for training and qualifying pilots to act as an SIC and log that time for the ATP flight time requirements.

AC 61-65, Certification: Pilots and Flight and Ground Instructors would be revised to include endorsements and guidance pertaining to the sport pilot provisions. This would include the recommended endorsement for qualifying a sport pilot only instructor to give basic instrument flight instruction to sport pilot candidates only.

FAA Order 8900.1, Flight Standards Information Management System, Vol. 2, Air Operator, Air Agency Certification, Chapter 9, Certification of a Part 141 Pilot School guidance concerning pilot school 141 Special Curricula courses would be revised to permit those courses to be used for a pilot school to obtain a pilot school certificate.

FAA Order 8900.1, Flight Standards Information Management System, Vol. 5, Airman Certification, Chapter 1, Direction, Guidance and Procedures for Parts 121/135 and General Aviation, Sec. 7, Amendments to Certificates and Replacement of Lost Certificates guidance

concerning temporary validation of flightcrew certificates would be revised to permit a certificate holder to obtain approval to provide a temporary document verifying a flightcrew member's airman certificate and medical certificate privileges under an approved certificate verification plan set forth in the certificate holder's operations specifications.

FAA Order 8900.1, Flight Standards Information Management System, Vol. 5, Airman Certification, Chapter 2, Title 14 CFR Part 61 Certification of Pilots and Flight Instructors, Sec. 15, Issue a Title 14 CFR Part 61 Pilot Certificate Based on Military Competence; and FAA Order 8900.2, General Aviation Airman Designee Handbook, Chapter 7, Designated Pilot Examiner Program, Sec. 19, Accomplish Designation/Issue Certificates as an ACR Employed Solely by a FIRC Sponsor, Paragraph 121, Flight Instructor Certificate and Ratings Issued on the Basis of Military Competence by an MCE and MC/FPE, and Paragraph 122, Certification of Graduates; and Sec. 20, Accomplish Designation/Conduct Functions as an MCE, FPE, MC/FPE, GIE, and FIRE, Paragraphs 123-127, Background, General Information for MCE, FPE, and MC/FPE Designations, Issuance of a U.S. Private Pilot Certificate and Ratings Based on Foreign Pilot Licenses, Pilot Certificates and Ratings Issued on the Basis of Military Competence by an MCE and MC/FPE, and Compliance with Other Provisions, respectively, guidance concerning flight instructor certificate renewal via military competence would be revised regarding the military flight instructor provisions included in this proposed rule.

VI. Section-By-Section Discussion of the Proposed Rule

In part 61, certification: pilots, flight instructors, and ground instructors, in § 61.1, the definition of “pilot time” would be revised. New definitions would also be added to § 61.1(b) for “aviation training device” and “technically advanced airplane.”

Section 61.3(a) would be revised to permit a pilot flightcrew member to carry a temporary document provided by a part 119 certificate holder under an approved certificate verification plan as a required pilot certificate for operating a civil aircraft of the United States.

Section 61.39 would be revised to add a provision that would require a pilot who has logged flight time under the SIC professional development program requirements of § 61.159(c)(1) to present a copy of the records required by § 135.63(a)(4)(vi) and (x) at the time of application for the practical test.

Section 61.51(e) would be revised to allow the part 135 flight instructor serving as PIC to log all of the flight time as PIC flight time even when the SIC is the sole manipulator of the controls and is logging time in an operation that does not require an SIC by type certification of the aircraft or the regulations under which the flight is being conducted. Section 61.51(f) would be revised to reflect the allowance for SICs to log flight time in part 135 operations when not serving as required flightcrew members under the type certificate or regulations. Section 61.51(g) would also be revised to allow a pilot to accomplish instrument experience when using an FAA-approved FFS, FTD, or ATD without an instructor present.

Section 61.57(c) would be revised to allow pilots to accomplish instrument experience in ATDs at the same 6-month interval allowed for FFSs and FTDs. In addition, the section would be revised to no longer require pilots, who opt to use ATDs for accomplishing instrument experience, to complete a specific number of additional instrument experience hours or additional tasks.

Section 61.99 would be revised to allow flight training received from a sport pilot instructor who does not also hold a flight instructor certificate issued under the requirements in

subpart H of part 61 to be credited towards a portion of the flight training requirements for a recreational pilot certificate with airplane, rotorcraft, or lighter-than-air categories.

Section 61.109 would be revised by adding paragraph (l) to allow flight training received from a sport pilot instructor who does not also hold a flight instructor certificate issued under the requirements in subpart H of part 61 to be credited towards a portion of the flight training requirements for a private pilot certificate with airplane, rotorcraft, or lighter-than-air categories.

Section 61.129(a)(3)(ii) would be revised to allow a pilot seeking a commercial pilot certificate with a single engine class rating to complete the 10 hours of training, currently required in a complex or turbine-powered airplane, to also be completed in a TAA. Coordinated revisions would be made in § 61.129(b)(3)(ii) for clarity and consistency purposes only.

Section 61.159(c)(1) would be revised to set forth the requirements for logging SIC pilot time in an operation that does not require an SIC by type certification of the aircraft or the regulations under which the flight is being conducted.

Section 61.161 would be revised to permit flight time logged under an SIC PDP to be counted toward the 1,200 hours of total flight time required for an ATP certificate with a rotorcraft category helicopter class rating.

Section 61.195 paragraphs (b) and (c) would be revised to permit a flight instructor who holds only an instrument rating to provide instrument training without being required to hold aircraft category and class ratings on his or her flight instructor certificate.

Section 61.197(a)(2)(iv) would be revised to allow a military instructor who has passed a U.S. Armed Forces military instructor pilot proficiency check within the 24 calendar months

preceding the month of application to be eligible to renew his or her FAA flight instructor certificate based on that proficiency check. The section would also be clarified to indicate that a flight instructor would be able to renew his or her certificate by providing a record demonstrating that, within the previous 24 calendar months, the instructor passed a military instructor pilot proficiency check for a rating that the instructor already holds or for a new rating.

Section 61.199 would be revised to permit a military instructor to reinstate his or her flight instructor certificate by providing a record showing that, within the previous six calendar months, the instructor passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check for an additional military rating.

Section 61.412 would be added to establish training and endorsement requirements for those sport pilot flight instructors who want to provide training for sport-pilot applicants on control and maneuvering solely by reference to the flight instruments.

Section 61.415 would be revised by adding new paragraph (h) to clarify that a sport pilot instructor may not conduct flight training on control and maneuvering an aircraft solely by reference to the instruments in an airplane that has a Vh greater than 87 knots CAS without meeting the requirements in proposed § 61.412.

In part 63, certification: flight crewmembers other than pilots, § 63.3(a) would be revised to permit a flightcrew member to carry a temporary document provided by a part 119 certificate holder under an approved certificate verification plan as a required flight engineer certificate for operating a civil aircraft of the United States.

Section 63.16 would be revised to update the process for replacement of a lost or destroyed airman certificate or medical certificate and to add a process for replacement of a lost or destroyed knowledge test report.

In part 91, general operating and flight rules, § 91.109(c) would be revised to permit a sport pilot instructor who has obtained the proposed endorsement in § 61.412 to serve as a safety pilot only for the purpose of providing flight training on control and maneuvering solely by reference to the instruments to a sport pilot applicant seeking a solo endorsement in an airplane with a Vh greater than 87 knots CAS.

Section 91.313 would be revised to permit owners/operators of aircraft certificated in the restricted category to operate those aircraft for the purpose of providing pilot training and testing, to pilots employed by the operator to perform the special purpose operation, that leads to a type rating designation required by § 61.31(a) (and an ATP certificate obtained concurrently with a type rating). The section would also be amended to allow flights to be conducted in restricted category aircraft for the purpose of designating examiners and training center evaluators and qualifying FAA inspectors in the aircraft type and conducting oversight and observation of designated examiners and training center evaluators.

Section 91.531 would be revised to allow certain large airplanes that are not type-certificated to be operated without a pilot who is designated as SIC, provided that those airplanes: (1) were originally designed with only one pilot station; or (2) were originally designed with more than one pilot station for purposes of flight training or for other purposes, but were operated by a branch of the United States armed forces or the armed forces of a foreign contracting State to the Convention on International Civil Aviation with only one pilot. The

section would also be revised to eliminate redundancies and reorganized for purposes of clarification by placing all affirmative requirements for a SIC in paragraph (a) and all exceptions thereto in paragraph (b).

In part 121, operating requirements: domestic, flag, and supplemental operations, § 121.383(c) would be revised to permit a certificate holder to obtain approval to provide a temporary document verifying a flightcrew member's airman certificate and medical certificate privileges under an approved certificate verification plan set forth in the certificate holder's operations specifications.

In part 135, operating requirements: commuter and on demand operations and rules governing persons on board such aircraft, § 135.95 would be revised to permit a certificate holder to obtain approval to provide a temporary document verifying a flightcrew member's airman certificate and medical certificate privileges under an approved certificate verification plan set forth in the certificate holder's operations specifications.

Section 135.99 would be revised to add paragraph (c) to permit a part 135 certificate holder to receive approval of an SIC professional development program via operations specifications (Ops Specs) in order to allow their pilots to log time as SICs in an operation that does not require an SIC by type certification of the aircraft or the regulations under which the flight is being conducted. The paragraph includes requirements related to the certificate holder, aircraft, and pilots involved. Section 135.99(d) would state that certificate holders who are authorized to operate as a basic operator, single PIC operator, or single pilot operator would not be permitted to obtain approval to conduct an SIC professional development program.

Section 135.245 would be revised to remove the reference to part 61 in § 135.245(a) and move the current instrument experience requirements in § 61.57(c)(1) and (2) to new § 135.245(c).

In part 141, pilot schools, § 141.5(d) would be revised to add an end-of-course test for a special curricula course approved under § 141.57 to the list of activities a pilot school may use for the FAA to issue a pilot school certificate.

Appendix D to part 141, commercial pilot certification course, would be revised to allow commercial pilot certification courses to reflect the proposed relief in § 61.129(a)(3)(ii) that would permit a pilot seeking a commercial pilot certificate with a single engine class rating to complete the 10 hours of training in one, or a combination of, a TAA, a complex airplane, or a turbine-powered airplane.

Appendix I to part 141, additional aircraft category and/or class rating course, section 4, paragraph (k)(2) would be revised by renumbering two paragraphs, both of which are currently designated (iv).

VII. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade

Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this proposed rule: (1) has benefits that justify its costs, (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866, (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) would have a positive significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below, and a full discussion of the benefits and costs is provided in the regulatory evaluation included in the docket for this rulemaking.

Who is Potentially Affected by this Rule?

The people who benefit from this rule would be pilots, student pilots, flight instructors, military pilots seeking civilian ratings, and pilot schools.

Assumptions

1. Analysis Time Period ----- 5 Years
2. Discount Rate ----- 7%

Total Benefits and Costs

This proposed rule has 12 separate provisions impacting different sections of parts 61, 63, 91, 121, 135, and 141 of the Federal Aviation Regulations. A separate analysis was conducted for each of the 12 provisions. From these analyses the FAA determined that the proposed changes were either minimal cost, had unquantified benefits which exceeded minimal costs, or had quantified cost savings. These analyses are discussed in detail in a separate regulatory evaluation. Throughout these analyses quantified cost savings once identified are discussed as benefits, and not negative savings. Over a five year analysis period the quantified benefits (cost savings) are about \$112.2 million, or \$99.0 million in present value at a 7 percent discount rate.

The following table shows the number and title of the twelve proposed rule provisions, the sections of the current Federal Aviation Regulations that would be affected by this proposed rulemaking, a summary of the impact for each of the twelve proposed provisions and the total cost savings, of the proposals with quantified benefits, over the analysis interval.

Table 3: Summary of the Proposed Rule Provisions

Provision	Sections Affected	Summary	Total Cost Savings (Benefits) for 5-Year Analysis Period
Instructor	61.51(g)(5)	Removes the requirement to have an	The cost savings benefits

requirement when using an FFS, FTD, or ATD to complete instrument recency		instructor present when accomplishing flight experience requirements for instrument recency in an FAA-approved FFS, FTD, or ATD.	equal about \$12.1 million or \$10.6 million in present value at a 7 percent discount rate.
Instrument recency experience requirements	61.57(c) 135.245	Reduces the frequency of instrument recency flight experience accomplished exclusively in ATDs from every two months to every six months. Reduces the number of tasks and removes the three-hour flight time requirement when accomplishing instrument recency flight experience in ATDs.	The cost savings benefits equal about \$79.4 million or \$69.6 million in present value at a 7 percent discount rate.
Second in Command for part 135 operations	61.1 61.39(a) 61.51 (e),(f) 61.159(a),(c) 61.161 135.99(c)	Allows a pilot to log SIC flight time in a multi-engine airplane in a part 135 operation that does not require a SIC	The FAA considers this to be a minimum cost rule with positive, but difficult to quantify, benefits.
Completion of commercial pilot training and testing in technically advanced airplanes (TAA)	61.1 61.129(a)(3)(ii) appendix D to part 141	Allows a TAA to be used to meet some or all of the currently required 10 hours of training that must be completed in a complex or turbine-powered airplane for the single engine commercial pilot certificate. TAA could be used in combination with, or instead of, a complex or turbine-powered airplane to meet the aeronautical experience requirement and could be used to complete the practical test.	The cost savings benefits equal about \$9.7 million or \$8 million in present value at a 7 percent discount rate.
Flight instructors with instrument ratings only	61.195(b), (c)	Removes the requirement that instrument only instructors have category and class ratings on their flight instructor certificates to provide instrument training.	The cost savings benefits equal about \$1.7 million or \$1.5 million in present value at a 7 percent discount rate.
Sport pilot flight instructor training privilege	61.412 61.415(h) 91.109(c)	Allows a sport pilot only instructor to provide training on control and maneuvering solely by reference to the flight instruments (for sport pilot students only).	Sport pilot flight instructors who choose to receive this endorsement have determined that they would be able to recoup this cost by providing training to sport pilot students.
Credit for training obtained as a sport pilot	61.99 61.109(i)	Allows sport pilot training to be credited for certain aeronautical experience requirements for a higher certificate or rating.	If all 5,259 sport pilots choose to use the lower cost option, the cost savings would exceed \$8.0 million. We have used \$8.0 million as a one-time event in the

			benefit-cost analysis.
Include special curricula courses in renewal of pilot school certificate	141.5(d)	Allows part 141 pilot schools to count FAA approved “special curricula” course completions (graduates of these courses) toward certificate renewal requirements.	This proposed rule provision provides potential unquantified benefits which exceed minimal compliance costs.
Temporary validation of flightcrew members’ certificates	61.3(a) 63.3(a) 63.16 121.383(c) 135.95	Allows a confirmation document issued by a part 119 certificate holder authorized to conduct operations under part 121 or 135 to serve as a temporary verification of the airman certificate and/or medical certificate during domestic operations for up to 72 hours.	This proposed rule would relieve both the FAA and stakeholders from the burden of the exemption process, which must be completed every two years. The cost savings, while real, are small and believed to be de minimis.
Military competence for flight instructors	61.197 61.199	Allows the addition of a flight instructor rating based on military competency to “simultaneously qualify” for the reinstatement of that expired FAA flight instructor certificate.	The cost savings benefits equal about \$1.4 million or \$1.2 million in present value at a 7 percent discount rate.
Restricted category aircraft training and testing allowances	91.313	Allows an operator to request and obtain a letter of deviation authority to conduct training and testing and other directly related activities for employees to obtain a type rating in a restricted category aircraft.	The benefits will exceed costs for those who choose to comply.
Single pilot operations of former military airplanes and other airplanes with special airworthiness certificates	91.531	Allows pilots to operate certain large and turbojet-powered airplanes (specifically former military and some airplanes not type certificated in the standard category) without a pilot who is designated as SIC.	The benefits will exceed costs for those who choose to comply.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 96-354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious

consideration.” The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Most of the parties affected by this proposed rule would be small businesses such as flight instructors, aviation schools, fixed base operators, and small part 135 air carriers. There are over 1,000 part 135 air carriers alone. The general lack of publicly available financial information from these small businesses precludes a financial analysis of these small businesses.

The FAA believes that this proposed rule would have a significant positive economic impact. The provisions of this proposed rule are largely cost-relieving. In fact, this proposed rule is expected to provide \$112 million in cost relief. Therefore, this proposed rule would have a positive effect on a substantial number of small entities.

Therefore, as provided in section 605(b), the head of the FAA certifies that this proposed rulemaking would result in a significant positive economic impact on a substantial number of small entities, as it imposes no new costs.

The FAA solicits comments regarding this determination.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this proposed rule and determined that it would have only a domestic impact and therefore would not create unnecessary obstacles to the foreign commerce of the United States.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$155.0 million in lieu of \$100 million.

This proposed rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act, (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted these proposed information collection amendments to OMB for its review.

Overview: A majority of the provisions proposed in this NPRM do not impose an additional recordkeeping burden, but rather provide alternative methods of qualification when pursuing an airman privilege, certificate, or rating. The overall requirements and documentation remain the same for those provisions. Some of the provisions involve training and testing and do not require OMB supporting statements. Some of the provisions that are designated as voluntary are also considered without paperwork burden.

Title 5 CFR 1320.3(h) states that “* * * ‘Information’ does not generally include items in the following categories; * * * (1) Affidavits, oaths, affirmations, certifications, receipts, changes of address, consents, or acknowledgments; provided that they entail no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument * * *.” The proposed provision regarding the instructor requirement when using a

FFS, FTD, or ATD to complete instrument recency experience would, among other things, remove the requirement that an instructor sign the pilot's logbook. This signature served as an instructor's affirmation of presence during the gaining of recency experience. Therefore, as the signature by the flight instructor merely documents the instructor's presence, it has not been considered an information collection, and the removal of its requirement does not constitute a burden reduction.

The FAA has identified three provisions with PRA implications that, if finalized as proposed, will require amended OMB supporting statements as listed below:

- Instrument recency experience requirements (information collection 2120-0021),
- Second in command for part 135 operations (information collection 2120-0021, 2120-0593, 2120-0039),
- Include special curricula courses in renewal of pilot school certificate (information collection 2120-0009).

Instrument Recency Requirements

The FAA is proposing to reduce the frequency of instrument recent flight experience accomplished exclusively in ATDs from every two months to every six months. The FAA is further proposing to reduce the number of tasks required to be performed and remove flight time hour requirements when accomplishing instrument recent flight experience in ATDs. While the proposed requirements are addressed in § 61.57(c), the requirement that such time be logged is addressed in § 61.51. This provision would reduce the requirements for persons using ATDs to make those requirements equivalent to the requirements for persons using aircraft, FFS, or FTDs. However, the FAA is not requiring that any person use any particular method to conduct this

training. The FAA does not have specific data on which to base an estimate of the use of aircraft, FFSs, FTDs, or ATDs for the conduct of this time, as the FAA does not require or receive information regarding how the experience was gained by each pilot. Thus, while this proposed provision would reduce recordkeeping requirements for those persons who choose to conduct experience solely in ATDs, the FAA can only estimate whether, and by how much, that burden might be reduced for the overall pilot population with an instrument rating as the FAA has no information to make an initial determination of the use of ATDs, FTDs, FFSs, or aircraft. The FAA further emphasizes that the pilot would still be required to log the time, but notes that for some pilots the frequency of logging instrument currency would be reduced from every two months to every six months.

As discussed in the regulatory evaluation accompanying this NPRM, as of June 30, 2015, there were 305,976 instrument-rated pilots¹⁰³, including ATP pilots, in the United States. As of June 23, 2015, the FAA estimates that 104,424 air carrier pilots¹⁰⁴ are exempted, leaving 201,552 instrument rated pilots that could benefit from this relief. Of these, the FAA estimates that only 50% (100,776) are maintaining their currency. Of this group it is likely that only 15% (15,116) use an ATD for currency and would potentially benefit from this relief. For those pilots, this would reduce the record keeping requirements of logging time from 6 times a year to two times a year, when logging instrument currency exclusively in an ATD. This provision does not change the requirement found in 14 CFR 61.51 that a pilot log his or her time while conducting these activities. As noted previously, the only difference is whether that time is logged in an ATD as compared with an FFS, FTD, or aircraft. Of the 15,116 pilots that would use an ATD exclusively

¹⁰³ Source: Comprehensive Airmen Information System (CAIS).

¹⁰⁴ Source: SPAS NVIS Air Operator Record List, 6/23/2015.

to maintain currency, it is expected that the reduction in paperwork (logging time) would be 0.1 hours (6 minutes) x 4 times a year x 15,116 pilots = 6,046.4 hours saved annually. The FAA seeks comments, with supporting data, regarding the number of pilots using ATDs who might use this provision. This reduced burden when logging time for currency would be estimated in the OMB supporting statement for approved information collection 2120-0021, “Pilots, Flight Instructors and Ground Instructors.”

Second in Command Time in Part 135 Operations

The FAA is proposing to allow pilots to log SIC time in multi-engine airplanes that do not require an SIC in a part 135 operation. This would be creditable total flight time in pursuit of an ATP certificate. The FAA has no basis on which to determine the number of pilots who might choose to take advantage of a SIC PDP sponsored by a part 135 operator that is approved to conduct a SIC PDP. In the regulatory evaluation, the FAA is seeking comments, with supporting data, regarding the number of pilots who might choose to take advantage of a program to become a SIC in a part 135 operation using a SIC PDP.

The FAA is proposing to amend § 135.99 by adding paragraph (c) to permit a part 119 certificate holder to receive approval of an SIC professional development program via operations specifications (Ops Specs) in order to allow the certificate holder’s pilots to log time under this proposal. This Ops Spec would outline the pilot qualification, training, and recordkeeping requirements necessary to receive approval of the program. Ops Specs are paragraphs written and issued to the operator to provide specific requirements for certain FAA approved operations. The burden for initial approval would be reflected in this part 119 information collection.

The information collection already accounts for an average of 50 Ops Spec amendments per operator annually under § 119.51(c). The FAA has determined that this annual estimate of Ops Spec changes is too high and is currently 25 per year. This new estimate would include the modification that is necessary to conduct the SIC training program. The FAA estimates that each Ops Spec change takes 0.2 hours (12 minutes).

The current overall burden for the average number of Op Specs per year is less and will be reflected under § 119.51(c) of the supporting statement for approved Information collection 2120-0593, “Part 119 Certification: Air Carriers and Commercial Operators.”

A certificate holder would submit for FAA approval of proposed curriculums for a SIC training that would need to meet the requirements specified in guidance (within an advisory circular) for the development of a SIC Professional Development Program. As discussed in the regulatory evaluation accompanying the NPRM, discussions with the Regional Air Cargo Carriers Association indicate that all of their air carrier members would be interested in providing such a program. RACCA has approximately 50 members who provide part 135 air cargo services. However, the FAA has no basis on which to estimate the number of air cargo carriers that might choose to either develop a SIC PDP, or implement and offer a SIC PDP based on existing operations. It is estimated that the operator would require approximately 40 hours to prepare and submit such new curriculums for FAA approval, or 20 hours to submit amended curricula. The FAA seeks comments, including supporting data, regarding the number of operators who might choose to use this provision annually, and whether those operators already have training curricula in place or would need to develop new curricula to meet the proposed requirements.

This change would be reflected in the supporting statement for approved information collection 2120-0039, “Operating Requirements: Commuter and On Demand Operations.”

For those pilots who become qualified to log SIC time under this provision, this would increase the recordkeeping requirements by the addition of these logbook endorsements. The FAA estimates that the pilots logging SIC time would require approximately 1.0 hours annually to log the various endorsements proposed in this provision. In information collection 2120-0021, the FAA states: “Section 61.51, Pilot logbooks – requires pilots to enter flight time that is to be credited toward experience or training requirements for certificates or ratings in a reliable record.”

The FAA notes that this provision is voluntary and also considers this to be a minimum cost rule provision with positive, but unquantifiable, benefits. The time and burden estimated for the required logbook endorsement verifying the pilot is qualified to log this SIC time would be provided in approved information collection 2120-0021, “Pilots, Flight Instructors and Ground Instructors.”

Pilot School Use of Special Curricula Courses for Renewal of Certificate

The FAA is proposing to amend § 141.5(d) to allow part 141 pilot schools that hold training course approvals for special curricula courses to renew their certificates based on their students’ successful completion of an end-of-course test for these FAA approved courses. There are currently hundreds of FAA approved special curricula courses in use by active pilot schools but it is likely that with this new allowance, some schools will request new special curricula course approvals. The FAA seeks comments regarding the number of schools that might use this provision.

The FAA notes that this provision is voluntary and also considers this to be a minimum cost rule provision with positive, but unquantifiable, benefits. The time and burden estimated for a Part 141 Pilot School to develop and submit for approval will be provided in the OMB supporting statement for approved information collection 2120-0009, “Operating Requirements: Pilot Schools – FAR Part 141.” The statement will also be adjusted for the current number of FAA certificated pilot schools currently listed at 581.

The below summarizes the changes made to each of the affected information collections.

Information collection 2120-0009: Pilot Schools – FAR Part 141

Abstract: 49 CFR Part 44707 authorizes certification of civilian schools giving instruction in flying. Information collected is used for certification and to determine applicant compliance. The information on FAA Form 8420-8, Application for Pilot School Certificates, is required from applicants who wish to be issued pilot school certificates and associated ratings.

Table 4: Summary of changes to information collection 2120-0009

Provision	Frequency	Per Respondent
New special curricula approvals	As needed	0.5 hours
New applications	As needed	0.5 hours
Adding special curricula	As needed	0.5 hours

Information collection 2120-0021: Certification: Pilots, Flight Instructors, and Ground Instructors

Abstract: 14 CFR part 61 prescribes certification standards for pilots, flight instructors, and ground instructors. The information collected is used to determine compliance with applicant eligibility, via FAA Form 8710-1.

Table 5: Summary of changes to information collection 2120-0021

Provision	Frequency	Per Respondent
Instrument Recency Experience Requirements	(4 times per year)	(0.1 hours)
Second in command time In part 135 operations	Annual	1 hour

Information Collection 2120-0039: Operating Requirements: Commuter and On Demand Operations

Abstract: Title 49 USC, Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR prescribes requirement for Air Carrier/Commercial Operators. The information collected shows compliance and applicant eligibility.

Table 6: Summary of changes to information collection 2120-0039

Provision	Frequency	Per Respondent
New SIC professional development program	As needed*	40 hours
Amend existing PIC professional development program	As needed*	20 hours

* The FAA estimates that all operators intending to conduct a SIC professional development program will apply to do so in the first year of this information collection. The annual burden hours will be reduced in years 2 and 3 of this information collection.

Information collection 2120-0593: Certification: Air Carriers and Commercial Operators

Abstract: The respondents to this information collection are Federal Aviation Regulations Part 135 and 121 operators. The FAA will use the information collected to ensure compliance and adherence to regulations.

Table 7: Summary of changes to information collection 2120-0593

Provision	Frequency	Per Respondent	Annual Burden Hours
Initial approval of Operations Specification for SIC professional development program	As needed	0.2 hours	

The agency is soliciting comments to—

- Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement to the address listed in the ADDRESSES section at the beginning of this preamble by [\[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER\]](#).

Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street, NW, Washington, DC 20053.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified the following differences with these proposed regulations.

The FAA notes that, under proposed § 61.159(c), pilots would be permitted to log second in command flight time in part 135 operations when a second pilot is not required. ICAO standards do not recognize the crediting of flight time when a pilot is not required by the aircraft certification or the operation under which the flight is being conducted. Accordingly, all pilots who log flight time under this provision and apply for an ATP certificate would have a limitation on the certificate indicating that the pilot does not meet the PIC aeronautical experience requirements of ICAO. This limitation may be removed when the pilot presents satisfactory evidence that he or she has met the ICAO standards.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5-6.6f and involves no extraordinary circumstances.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a “significant energy action” under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

IX. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does

not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The agency may change this proposal in light of the comments it receives.

Commenters are encouraged to identify the provisions on which they are commenting based on the title of the provisions used in Table 1 of this preamble.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the FOR FURTHER INFORMATION CONTACT section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- Visiting the FAA’s Regulations and Policies web page at http://www.faa.gov/regulations_policies or
- Accessing the Government Publishing Office’s web page at <http://www.fdsys.gov>

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation safety, Teachers.

14 CFR Part 63

Aircraft, Airman, Aviation safety.

14 CFR Part 91

Aircraft, Airmen, Aviation safety.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety.

14 CFR Part 135

Aircraft, Airmen, Aviation safety.

14 CFR Part 141

Airmen, Educational facilities, reporting and recordkeeping requirements, Schools.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

**PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND
INSTRUCTORS**

1. The authority citation for part 61 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709-44711, 44729, 44903, 45102-45103, 45301-45302.

2. Amend § 61.1(b) as follows:

- a. Add a new definition of “aviation training device” in alphabetical order.
- b. Revise the definition of “pilot time;” and,

c. Add new definition of “technically advanced airplane” in alphabetical order.

The revisions and additions read as follows:

§ 61.1 Applicability and definitions.

* * * * *

(b) * * *

Aviation training device means a training device, other than a full flight simulator or flight training device, that has been evaluated, qualified, and approved by the Administrator.

* * *

Pilot time means that time in which a person—

(i) Serves as a required pilot flight crewmember;

(ii) Receives training from an authorized instructor in an aircraft, full flight simulator, flight training device, or aviation training device;

(iii) Gives training as an authorized instructor in an aircraft, full flight simulator, flight training device, or aviation training device; or

(iv) Serves as second in command in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided the requirements in § 61.159(c)(1) are satisfied.

* * *

Technically Advanced Airplane (TAA) means an airplane equipped with an electronically advanced avionics system that includes the following installed components:

(i) An electronic Primary Flight Display (PFD) that includes, at a minimum, an airspeed indicator, turn coordinator, attitude indicator, heading indicator, altimeter, and vertical speed indicator; and

(ii) An independent additional Multifunction Display (MFD) that includes, at a minimum, a Global Positioning System (GPS) with moving map navigation and an integrated two axis autopilot.

* * * * *

3. In § 61.3, revise paragraph (a)(1)(iv), redesignate paragraph (a)(1)(v) as (a)(1)(vi), and add paragraph (a)(1)(v) to read as follows:

§ 61.3 Requirement for certificates, ratings, and authorizations.

(a) * * *

(1) * * *

(iv) A document conveying temporary authority to exercise certificate privileges issued by the Airmen Certification Branch under § 61.29(e);

(v) When engaged in a flight operation within the United States for a part 119 certificate holder authorized to conduct operations under parts 121 or 135, a temporary document provided by that certificate holder under an approved certificate verification plan; or

* * * * *

4. In § 61.39, revise paragraph (a)(3) to read as follows:

§ 61.39 Prerequisites for practical tests.

(a) * * *

(3) Have satisfactorily accomplished the required training and obtained the aeronautical experience prescribed by this part for the certificate or rating sought, and if applying for the practical test with flight time accomplished under § 61.159(c)(1), present a copy of the records required by § 135.63(a)(4)(vi) and (x) of this chapter;

* * * * *

5. Amend § 61.51 as follows:

a. In paragraphs (b)(1)(iii), (b)(1)(iv), (b)(2)(v), (b)(3)(iii), (b)(3)(iv), (k)(1)(ii), and (k)(2)(ii), remove the words “flight simulator” and add in their place the words “full flight simulator”;

b. Revise paragraph (e)(1)(i);

c. Add paragraph (e)(5);

d. Revise paragraphs (f)(1) and (f)(2);

e. Add paragraph (f)(3);

f. Revise paragraph (g)(4);

g. Add paragraph (g)(5); and

h. Revise paragraph (h)(1).

The revisions and additions read as follows:

§ 61.51 Pilot logbooks.

* * * *

(e) * *

(1) * *

(i) Except when logging flight time under § 61.159(c)(1), when the pilot is the sole manipulator of the controls of an aircraft for which the pilot is rated, or has sport pilot privileges for that category and class of aircraft, if the aircraft class rating is appropriate;

* * * *

(5) An authorized flight instructor may log all flight time while acting as pilot in command of an operation under part 135 if the flight is conducted in accordance with an approved second-in-command professional development program that meets the requirements of § 135.99(c).

(f) * *

(1) Is qualified in accordance with the second-in-command requirements of § 61.55 of this part, and occupies a crewmember station in an aircraft that requires more than one pilot by the aircraft's type certificate;

(2) Holds the appropriate category, class, and instrument rating (if an instrument rating is required for the flight) for the aircraft being flown, and more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is being conducted; or

(3) Serves as second in command in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided the requirements in § 61.159(c)(1) are satisfied.

(g) * * *

(4) A person may use time in a full flight simulator, flight training device, or aviation training device for acquiring instrument aeronautical experience for a pilot certificate or rating provided an authorized instructor is present to observe that time and signs the person's logbook or training record to verify the time and the content of the training session.

(5) A person may use time in a full flight simulator, flight training device, or aviation training device for satisfying instrument recency experience requirements provided a logbook or training record is maintained to specify the approved training device, time, and the content.

(h) Logging training time. (1) A person may log training time when that person receives training from an authorized instructor in an aircraft, full flight simulator, flight training device, or aviation training device.

* * * * *

6. Amend § 61.57 as follows:

a. In paragraphs (a)(3), (b)(2), (d)(1)(ii), (e)(4)(ii)(D), and (g) introductory text, remove the words “flight simulator” and add in their place the words “full flight simulator”;

b. Revise paragraph (c)(2); remove paragraphs (c)(3) through (c)(5); and, redesignate paragraph (c)(6) as paragraph (c)(3).

The revisions read as follows:

§ 61.57 Recent flight experience: Pilot in command.

* * * * *

(c) * * *

(2) Use of a full flight simulator, flight training device, or aviation training device for maintaining instrument experience. A pilot may accomplish the requirements in paragraph (c)(1) of this section in an approved full flight simulator, flight training device, or aviation training device provided the device represents the category of aircraft for the instrument rating privileges to be maintained and the pilot performs the tasks and iterations in simulated instrument conditions.

* * * * *

7. Revise § 61.99 to read as follows:

§ 61.99 Aeronautical experience.

(a) A person who applies for a recreational pilot certificate must receive and log at least 30 hours of flight time that includes at least—

(1) 15 hours of flight training from an authorized instructor on the areas of operation listed in § 61.98 of this part that consists of at least:

(i) Except as provided in § 61.100 of this part, 2 hours of flight training en route to an airport that is located more than 25 nautical miles from the airport where the applicant normally

trains, which includes at least three takeoffs and three landings at the airport located more than 25 nautical miles from the airport where the applicant normally trains; and

(ii) Three hours of flight training with an authorized instructor in the aircraft for the rating sought in preparation for the practical test within the preceding 2 calendar months from the month of the test.

(2) Three hours of solo flying in the aircraft for the rating sought, on the areas of operation listed in § 61.98 of this part that apply to the aircraft category and class rating sought.

(b) The holder of a sport pilot certificate may credit 10 hours of flight training received from a flight instructor with a sport pilot rating toward the training requirements of this section provided the flight training is accomplished in the same category and class of aircraft as the recreational pilot certificate rating sought.

8. In § 61.109, amend paragraph (k) by removing the words “flight simulator” and adding in their place the words “full flight simulator”, and add paragraph (l) to read as follows:

§ 61.109 Aeronautical experience.

* * * * *

(l) Permitted credit for flight training received from a flight instructor with a sport pilot rating. The holder of a sport pilot certificate may credit flight training received from a flight instructor with a sport pilot rating as follows:

(1) For a private pilot certificate with an airplane category single engine class rating or private pilot certificate with a rotorcraft category gyroplane class rating, a person may credit 10

hours of flight training received from a flight instructor provided the flight training is accomplished in the same category and class of aircraft for the rating sought.

(2) For a private pilot certificate with a lighter-than-air category airship class rating, a pilot may credit 12.5 hours of flight training received from a flight instructor with a sport pilot rating provided that training was accomplished in an airship.

(3) For a private pilot certificate with a lighter-than-air category balloon class rating, a pilot may credit 5 hours of flight training including 3 training flights received from a flight instructor with a sport pilot rating provided that flight training was accomplished in a balloon.

9. In § 61.129:

a. Revise paragraphs (a)(3)(ii) and (b)(3)(ii); and

b. In paragraphs (c)(3)(i), (d) introductory text, (d)(3)(i), and (i), remove the words “flight simulator” and add in their place the words “full flight simulator”. The revisions read as follows:

§ 61.129 Aeronautical experience.

(a) * * *

(3) * * *

(ii) 10 hours of training in a complex airplane, a turbine-powered airplane, or a technically advanced airplane (TAA); or for an applicant seeking a single-engine seaplane rating, 10 hours of training in a seaplane that has flaps and a controllable pitch propeller;

* * * * *

(b) * * *

(3) * * *

(ii) 10 hours of training in a multiengine complex or turbine-powered airplane; or for an applicant seeking a multiengine seaplane rating, 10 hours of training in a multiengine seaplane that has flaps and a controllable pitch propeller;

* * * * *

10. In § 61.159:

a. Amend paragraph (a)(4) by removing the words “flight simulator” and adding in their place the words “full flight simulator”;

b. Revise the introductory text of paragraph (a)(5), the introductory text of paragraph (c), and paragraph (c)(1). The revisions read as follows:

§ 61.159 Aeronautical experience: Airplane category rating.

(a) * * *

(5) 250 hours of flight time in an airplane as a pilot in command, or when serving as a required second in command flightcrew member performing the duties of pilot in command while under the supervision of a pilot in command, or any combination thereof, which includes at least—

* * * * *

(c) A commercial pilot may log the following second-in-command pilot time or flight-engineer flight time toward the 1,500 hours of total time as a pilot required by paragraph (a) of this section and the total flight time requirements in § 61.160:

(1) Second-in-command pilot time in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided—

(i) The experience is accomplished as part of a second-in-command professional development program approved by the Administrator under § 135.99 of this chapter;

(ii) The pilot in command of the operation certifies in the pilot’s logbook that the second-in-command pilot time was accomplished under this section; and

(iii) The pilot time may not be logged as pilot-in-command time even when the pilot is the sole manipulator of the controls and may not be used to meet the aeronautical experience requirements in paragraphs (a)(1) through (a)(5) of this section.

* * * * *

11. In § 61.161, amend paragraph (b) by removing the words “flight simulator” and adding in their place the words “full flight simulator”, and add paragraphs (c), (d), and (e) to read as follows:

§ 61.161 Aeronautical experience: Rotorcraft category and helicopter class rating.

* * * * *

(c) Flight time logged under § 61.159(c)(1) of this chapter may be counted toward the 1,200 hours of total time as a pilot required by paragraph (a) of this section.

(d) An applicant is issued an airline transport pilot certificate with the limitation, “Holder does not meet the pilot in command aeronautical experience requirements of ICAO,” as prescribed under Article 39 of the Convention on International Civil Aviation, if the applicant

does not meet the ICAO requirements contained in Annex 1 “Personnel Licensing” to the Convention on International Civil Aviation, but otherwise meets the aeronautical experience requirements of this section.

(e) An applicant is entitled to an airline transport pilot certificate without the ICAO limitation specified under paragraph (d) of this section when the applicant presents satisfactory evidence of having met the ICAO requirements under paragraph (d) of this section and otherwise meets the aeronautical experience requirements of this section.

12. In § 61.195, revise paragraphs (b) and (c) to read as follows:

§ 61.195 Flight instructor limitations and qualifications.

* * * * *

(b) Aircraft Ratings. Except as provided in paragraph (c) of this section, a flight instructor may not conduct flight training in any aircraft for which the flight instructor does not hold:

- (1) A flight instructor certificate with the applicable category and class rating; and
- (2) A pilot certificate with a type rating, if appropriate.

(c) Instrument Rating. A flight instructor may conduct instrument training for the issuance of an instrument rating, a type rating not limited to VFR, or the instrument training required for commercial pilot and airline transport pilot certificates if the flight instructor holds an instrument rating appropriate to the aircraft used for the instrument training on his or her flight instructor certificate, and:

- (1) Meets the requirements of paragraph (b) of this section; or

(2) Holds a commercial pilot certificate or airline transport pilot certificate with the appropriate category and class ratings for the aircraft in which the instrument training is provided if the pilot receiving instrument training holds a pilot certificate with category and class ratings appropriate to the aircraft in which the instrument training is being provided.

* * * * *

13. In § 61.197, revise paragraph (a)(2)(iv) and (c) to read as follows:

§ 61.197 Renewal requirements for flight instructor certification.

(a) * * *

(2) * * *

(iv) A record showing that, within the preceding 24 months from the month of application, the flight instructor passed an official U.S. Armed Forces proficiency check in an aircraft for which the military instructor already holds a rating or in an aircraft for an additional rating.

* * * * *

(c) The practical test required by paragraph (a)(1) of this section may be accomplished in a full flight simulator or flight training device if the test is accomplished pursuant to an approved course conducted by a training center certificated under part 142 of this chapter.

14. In § 61.199, add paragraphs (a)(3), (c) and (d) to read as follows:

§ 61.199 Reinstatement requirements of an expired flight instructor certificate.

(a) * * *

(3) For military instructors, provide a record showing that, within the preceding 6 calendar months from the date of application for reinstatement, the person passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check for an additional military instructor rating.

* * * * *

(c) The holder of an expired flight instructor certificate issued prior to October 20, 2009, may apply for reinstatement of that certificate by presenting the following:

(1) A record showing that, since the date the flight instructor certificate was issued, the person passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check for an additional military rating; and

(2) A knowledge test report that shows the person passed a knowledge test on the aeronautical knowledge areas listed under § 61.185(a) appropriate to the flight instructor rating sought and the knowledge test was passed within the preceding 24 calendar months prior to the month of application.

(d) The requirements of paragraph (c) of this section will expire on [THE FAA WILL INSERT DATE ONE YEAR AFTER THE EFFECTIVE DATE OF FINAL RULE IN FEDERAL REGISTER].

15. Add § 61.412 to read as follows:

§ 61.412 Do I need additional training to provide instruction on control and maneuvering an airplane solely by reference to the instruments in a light-sport aircraft based on V_h ?

To provide flight training on control and maneuvering an aircraft solely by reference to the instruments for the purpose of issuing a solo cross-country endorsement to a sport pilot applicant under § 61.93(e)(12), a sport pilot instructor must:

(a) Hold an endorsement under § 61.327;

(b) Receive and log a minimum of 1 hour of ground training and 3 hours of flight training from an authorized instructor in an airplane with a V_h greater than 87 knots CAS or in a full flight simulator or flight training device that replicates an airplane with a V_h greater than 87 knots CAS; and

(c) Receive a one-time endorsement in the sport pilot instructor's logbook from an instructor authorized under subpart H of this part who certifies that the person is proficient in providing training on control and maneuvering solely by reference to the instruments in an airplane with a V_h greater than 87 knots CAS. This flight training must include straight and level flight, turns, descents, climbs, use of radio aids, and ATC directives.

16. In § 61.415, redesignate paragraphs (h) and (i) as paragraphs (i) and (j), and add paragraph (h) to read as follows:

§ 61.415 What are the limits of a flight instructor certificate with a sport pilot rating?

* * * * *

(h) You may not provide training on the control and maneuvering of an aircraft solely by reference to the instruments in a light sport aircraft with a V_h greater than 87 knots CAS unless you meet the requirements in § 61.412.

* * * * *

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

17. The authority citation for part 63 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45302.

18. Revise § 63.3 to read as follows:

§ 63.3 Certificates and ratings required.

(a) Except as provided in paragraph (c), no person may act as a flight engineer of a civil aircraft of U.S. registry unless that person has in his or her personal possession or readily accessible in the aircraft :

(1) A current flight engineer certificate with appropriate ratings issued to that person under this part;

(2) A document conveying temporary authority to exercise certificate privileges issued by the Airman Certification Branch under §63.16(d) of this part; or

(3) When engaged in a flight operation within the United States for a part 119 certificate holder authorized to conduct operations under parts 121, a temporary document provided by that certificate holder under an approved certificate verification plan.

(b) A person may act as a flight engineer of an aircraft only if that person holds a current second-class (or higher) medical certificate issued to him under part 67 of this chapter, or other documentation acceptable to the FAA, that is in that person's physical possession or readily accessible in the aircraft.

(c) When the aircraft is operated within a foreign country, a current flight engineer certificate issued by the country in which the aircraft is operated, with evidence of current medical qualification for that certificate, may be used. Also, in the case of a flight engineer certificate issued under §63.42, evidence of current medical qualification accepted for the issue of that certificate is used in place of a medical certificate.

(d) No person may act as a flight navigator of a civil aircraft of U.S. registry unless he has in his personal possession a current flight navigator certificate issued to him under this part and a second-class (or higher) medical certificate issued to him under part 67 of this chapter within the preceding 12 months. However, when the aircraft is operated within a foreign country, a current flight navigator certificate issued by the country in which the aircraft is operated, with evidence of current medical qualification for that certificate, may be used.

(e) Each person who holds a flight engineer or flight navigator certificate, or medical certificate, shall present either or both for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

19. Revise § 63.16 to read as follows:

§ 63.16 Change of name; replacement of lost or destroyed certificate.

(a) An application for a change of name on a certificate issued under this part must be accompanied by the applicant's current certificate and the marriage license, court order, or other document verifying the change. The documents are returned to the applicant after inspection.

(b) A request for a replacement of a lost or destroyed airman certificate issued under this part must be made—

(1) By letter to the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Post Office Box 25082, Oklahoma City, OK 73125 and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other form and manner approved by the Administrator including a request to Airman Services at <http://www.faa.gov>, and must be accompanied by acceptable form of payment for the appropriate fee.

(c) A request for the replacement of a lost or destroyed medical certificate must be made:

(1) By letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator and must be accompanied by acceptable form of payment for the appropriate fee.

(d) A request for the replacement of a lost or destroyed knowledge test report must be made:

(1) By letter to the Department of Transportation, FAA, Airmen Certification Branch, P.O. Box 25082, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator and must be accompanied by acceptable form of payment for the appropriate fee.

(e) The letter requesting replacement of a lost or destroyed airman certificate, medical certificate, or knowledge test report must state:

(1) The name of the person;

(2) The permanent mailing address (including ZIP code), or if the permanent mailing address includes a post office box number, then the person's current residential address;

(3) The certificate holder's date and place of birth; and

(4) Any information regarding the—

(i) Grade, number, and date of issuance of the airman certificate and ratings, if appropriate;

(ii) Class of medical certificate, the place and date of the medical exam, name of the Airman Medical Examiner (AME), and the circumstances concerning the loss of the original medical certificate, as appropriate; and

(iii) Date the knowledge test was taken, if appropriate.

(f) A person who has lost an airman certificate, medical certificate, or knowledge test report may obtain in a form or manner approved by the Administrator, a document conveying temporary authority to exercise certificate privileges from the FAA Aeromedical Certification Branch or the Airman Certification Branch, as appropriate, and the—

(1) Document may be carried as an airman certificate, medical certificate, or knowledge test report, as appropriate, for a period not to exceed 60 days pending the person's receiving a duplicate under paragraph (b), (c), or (d) of this section, unless the person has been notified that the certificate has been suspended or revoked.

(2) Request for such a document must include the date on which a duplicate certificate or knowledge test report was previously requested.

PART 91—GENERAL OPERATING AND FLIGHT RULES

20. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

21. In § 91.109, revise paragraph (c)(1) to read as follows:

§ 91.109 Flight instruction; Simulated instrument flight and certain flight tests.

* * * * *

(c) * * *

(1) The other control seat is occupied by a safety pilot who possesses at least:

(i) A private pilot certificate with category and class ratings appropriate to the aircraft being flown; or

(ii) For purposes of providing training for a solo cross-country endorsement under § 61.93 of this chapter, a flight instructor certificate with an appropriate sport pilot rating and an endorsement under § 61.412 of this chapter.

* * * * *

22. In § 91.313, revise paragraphs (b), (c), and (d)(3) and (d)(4) and add paragraphs (d)(5) and (h) to read as follows:

§ 91.313 Restricted category civil aircraft: Operating limitations.

* * * *

(b) For the purpose of paragraph (a) of this section, the following operations are considered necessary to accomplish the work activity directly associated with a special purpose operation:

(1) Flights conducted for flight crewmember training in a special purpose operation for which the aircraft is certificated and flights conducted to satisfy proficiency check and recent flight experience requirements under part 61 of this chapter provided the flight crewmember holds the appropriate category, class, and type ratings and is employed by the operator to perform the appropriate special purpose operation; and

(2) Flights conducted to relocate the aircraft for maintenance.

(c) No person may operate a restricted category civil aircraft carrying persons or property for compensation or hire. For the purposes of this paragraph, a special purpose operation involving the carriage of persons or material necessary to accomplish that operation, such as crop dusting, seeding, spraying, and banner towing (including the carrying of required persons or material to the location of that operation), an operation for the purpose of providing flight crewmember training in a special purpose operation, and an operation conducted under the authority provided in paragraph (h) of this section are not considered to be the carriage of persons or property for compensation or hire.

(d) * * *

(3) Performs an essential function in connection with a special purpose operation for which the aircraft is certificated;

(4) Is necessary to accomplish the work activity directly associated with that special purpose; or

(5) Is necessary to accomplish an operation under paragraph (h) of this section.

* * * * *

(h) Deviation authority. (1) An operator may apply for deviation authority from the provisions of paragraph (a) of this section to conduct operations for the following purposes:

(i) Flight training and the practical test for issuance of a type rating provided the pilot being trained and tested holds at least a commercial pilot certificate with the appropriate category and class ratings for the aircraft type and is employed by the operator to perform a special purpose operation; and

(ii) Flights to designate an examiner or training center evaluator or qualify an FAA inspector in the aircraft type and flights necessary to provide continuing oversight and evaluation of an examiner or inspector.

(2) The FAA will issue this deviation authority as a letter of deviation authority.

(3) The FAA may cancel or amend a letter of deviation authority at any time.

(4) An applicant must submit a request for deviation authority in a form and manner acceptable to the Administrator at least 60 days before the date of intended operations. A request for deviation authority must contain a complete description of the proposed operation and

justification that establishes a level of safety equivalent to that provided under the regulations for the deviation requested.

23. Revise § 91.531 to read as follows:

§ 91.531 Second in command requirements.

(a) Except as provided in paragraph (b) of this section, no person may operate the following airplanes without a pilot designated as second in command:

(1) Any airplane that is type certificated for more than one required pilot.

(2) Any large airplane unless the type certification requirements for that airplane permit operation by a single pilot.

(3) Any commuter category airplane.

(b) A person may operate the following airplanes without a pilot designated as second in command:

(1) A large airplane certificated under SFAR 41 if that airplane is certificated for operation with one pilot.

(2) A commuter category airplane, that has a passenger seating configuration, excluding pilot seats, of nine or less if that airplane is type certificated for one required pilot.

(3) A large or turbojet-powered multiengine airplane that holds a special airworthiness certificate, if:

(i) the airplane was originally designed with only one pilot station, or

(ii) the airplane was originally designed with more than one pilot station, but single pilot operations were permitted by the airplane flight manual or were otherwise permitted by a branch of the United States armed forces or the armed forces of a foreign contracting State to the Convention on International Civil Aviation.

(c) No person may designate a pilot to serve as second in command, nor may any pilot serve as second in command, of an airplane required under this section to have two pilots unless that pilot meets the qualifications for second in command prescribed in § 61.55 of this chapter.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

24. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112-95, sec. 412, 126 Stat. 89, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44729, 44732; 46105; Pub. L. 111-216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112-95, 126 Stat. 62 (49 U.S.C. 44732 note).

25. In § 121.383, revise paragraph (c) to read as follows:

§ 121.383 Airman: Limitations on use of services.

* * * * *

(c) A certificate holder may obtain approval to provide a temporary document verifying a flightcrew member's airman certificate and medical certificate privileges under an approved certificate verification plan set forth in the certificate holder's operations specifications. A document provided by the certificate holder may be carried as an airman certificate or medical certificate on flights within the United States for up to 72 hours.

* * * * *

**PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND
OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT**

26. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722, 44730, 45101-45105; Pub. L. 112-95, 126 Stat. 58 (49 U.S.C. 44730).

27. Revise § 135.95 to read as follows:

§ 135.95 Airmen: Limitations on use of services.

(a) No certificate holder may use the services of any person as an airman unless the person performing those services—

(1) Holds an appropriate and current airman certificate; and

(2) Is qualified, under this chapter, for the operation for which the person is to be used.

(b) A certificate holder may obtain approval to provide a temporary document verifying a flightcrew member's airman certificate and medical certificate privileges under an approved certificate verification plan set forth in the certificate holder's operations specifications. A document provided by the certificate holder may be carried as an airman certificate or medical certificate on flights within the United States for up to 72 hours.

28. In § 135.99, add paragraphs (c) and (d) to read as follows:

§ 135.99 Composition of flight crew.

* * * * *

(c) Except as provided in paragraph (d), a certificate holder authorized to conduct operations under instrument flight rules may receive authorization from the Administrator through its operations specifications to establish a second-in-command professional development program. As part of that program, a pilot employed by the certificate holder may log time as second in command in operations under this part that do not require a second pilot by type certification of the aircraft or the regulation under which the flight is being conducted, provided—

(1) The certificate holder:

(i) Maintains records for each assigned second in command consistent with the requirements in § 135.63 of this part;

(ii) Provides a copy of the records required by § 135.63(a)(4)(vi) and (x) of this part to the assigned second in command upon request and within a reasonable time;

(iii) Establishes and maintains a data collection and analysis process that will enable the certificate holder and the FAA to determine whether the professional development program is accomplishing its objectives; and

(iv) Conducts flight instructor standardization meetings at least once every 12 calendar months for all flight instructors serving as pilot in command during operations with a second in command serving under the professional development program.

(2) The aircraft is a multiengine airplane that has an independent set of controls for a second pilot flightcrew member which may not include a throwover control wheel and the following equipment and independent instrumentation for a second pilot:

- (i) An airspeed indicator;
 - (ii) Sensitive altimeter adjustable for barometric pressure;
 - (iii) Gyroscopic bank and pitch indicator;
 - (iv) Gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator;
 - (v) Gyroscopic direction indicator;
 - (vi) For IFR operations, a vertical speed indicator;
 - (vii) For IFR operations, course guidance for en route navigation and instrument approaches; and
 - (viii) A microphone, transmit switch, and headphone or speaker.
- (3) The pilot assigned to serve as second in command satisfies the following requirements:
- (i) The second in command qualifications in § 135.245 of this part;
 - (ii) The flight time and duty period limitations and rest requirements in subpart F of this part;
 - (iii) The crewmember testing requirements for second in command in subpart G of this part; and
 - (iv) The crewmember training requirements for second in command in subpart H of this part; and
- (4) The assigned pilot in command is a flight instructor (aircraft) qualified under §§ 135.338 and 135.340 of this part.

(d) The following certificate holders are not eligible to receive authorization for a second-in-command professional development program under paragraph (c):

(1) A certificate holder that uses only one pilot in its operations; and

(2) A certificate holder that has been approved to deviate from the requirements in §§ 135.21(a), 135.341(a), or 119.69(a) of this chapter.

29. In § 135.245, revise paragraph (a) and add paragraph (c) to read as follows.

§ 135.245 Second in command qualifications.

(a) Except as provided in paragraph (b), no certificate holder may use any person, nor may any person serve, as second in command of an aircraft unless that person holds at least a commercial pilot certificate with appropriate category and class ratings and an instrument rating.

* * * * *

(c) No certificate holder may use any person, nor may any person may serve, as second in command under IFR unless that person meets the following instrument experience requirements:

(1) Use of an airplane or helicopter for maintaining instrument experience. Within the 6 calendar months preceding the month of the flight, that person performed and logged at least the following tasks and iterations in-flight in an airplane or helicopter, as appropriate, in actual weather conditions, or under simulated instrument conditions using a view-limiting device:

(i) Six instrument approaches;

(ii) Holding procedures and tasks; and

(iii) Intercepting and tracking courses through the use of navigational electronic systems.

(2) Use of an FSTD for maintaining instrument experience. A person may accomplish the requirements in paragraph (c)(1) of this section in an approved FSTD provided:

(i) The FSTD represents the category of aircraft for the instrument rating privileges to be maintained;

(ii) The person performs the tasks and iterations in simulated instrument conditions; and

(iii) An authorized instructor observes the tasks and iterations and signs the person's logbook or training record to verify the time and content of the session.

PART 141—PILOT SCHOOLS

30. The authority citation for part 141 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709, 44711, 45102-45103, 45301-45302.

31. In § 141.5, revise paragraph (d) to read as follows:

§ 141.5 Requirements for a pilot school certificate.

* * * * *

(d) Has established a pass rate of 80 percent or higher on the first attempt for all:

(1) Knowledge tests leading to a certificate or rating,

(2) Practical tests leading to a certificate or rating,

(3) End-of-course tests for an approved training course specified in appendix K of this part; and

(4) End-of-course tests for special curricula courses approved under § 141.57 of this part.

* * * * *

32. In appendix D to part 141:

a. Revise section 4, paragraphs (b)(1)(ii) and (b)(2)(ii); and

b. Amend paragraphs (b)(3)(i) and (b)(4)(i), by removing the words “flight simulator” and adding in their place the words “full flight simulator”. The revisions read as follows:

Appendix D to part 141--COMMERCIAL PILOT CERTIFICATION COURSE

* * * * *

4. Flight training.

* * * * *

(b) * * *

(1) * * *

(ii) Ten hours of training in a complex airplane, a turbine-powered airplane, or a technically advanced airplane;

* * * * *

(2) * * *

(ii) 10 hours of training in a multiengine complex or turbine-powered airplane;

* * * * *

33. In appendix I to part 141, revise section 4, paragraph (k)(2)(iv) and (k)(2)(v) to read as follows:

Appendix I to Part 141—Additional Aircraft Category and/or Class Rating Course

* * * * *

4. Flight training.

* * * * *

(k) * * *

(2) * * *

(iv) One 2-hour cross country flight during nighttime conditions in a multiengine airplane and, a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(v) Three hours of flight training in a multiengine airplane within 2 calendar months before the date of the practical test.

* * * * *

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), 44701(a)(5), and 44703(a), on April 22, 2016.

John S. Duncan, Director

Flight Standards Service.

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